



Oversight Board Members:

Linda Jackson-Whitmore, Chair
Chadrick Smalley, Vice Chair

John Marquez
Jeff Lee

Whitney Dotson
Janet Johnson

Sheri Gamba

Agenda

Special Meeting

of the Oversight Board of the Successor Agency to the
Richmond Community Redevelopment Agency

Thursday, June 19, 2014
6:00 pm

City of Richmond
Richmond Room, 1st floor
450 Civic Center Plaza
Richmond CA, 94804

1. Call to Order
2. Roll Call
3. Public Comment
Comments are limited to 3 minutes per speaker.
 - a. CONDUCT a public comment session to receive comments on the Housing Due Diligence Review. - (Susan Mayer)
4. New Business Items
 - b. CONSIDERATION of adopting a resolution amending a swap agreement relating to the interest rate swap dated June 26, 2007, and authorizing and approving certain actions taken in connection therewith. – (Susan Segovia)
 - c. CONSIDERATION of adopting a resolution authorizing the Executive Director to negotiate and enter into Exclusive Right to Negotiate (ERN) Agreements with 1) Miraflores Community Devco., LLC for the purchase and development of market rate homeownership units and; 2) Community Housing Development Corporation of North Richmond and Eden Housing Inc. for the disposition and development of affordable senior rental units at the Miraflores Housing Development site. - (Patrick Lynch 307-8140).
6. Adjournment

Oversight Board meetings are not televised.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Lizeht Zepeda (510) 620-1730. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

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**SUCCESSOR AGENCY TO THE
RICHMOND COMMUNITY
REDEVELOPMENT AGENCY**

AGENDA REPORT

DATE: June 19, 2014

TO: Honorable Chairperson Linda Jackson-Whitmore and Members of the Oversight Board of the Successor Agency to the Dissolved Richmond Community Redevelopment Agency

FROM: Successor Agency Staff

SUBJECT: Public Comment Session on Due Diligence Review of the Low and Moderate Income Housing Fund

STATEMENT OF THE ISSUE:

State legislation (AB 1484) requires the Successor Agency to the Dissolved Richmond Community Redevelopment Agency (Agency) to contract with an independent accountant to conduct a Due Diligence Review (DDR) to determine if there are any unobligated cash or cash equivalents available for distribution to the taxing entities that share tax increment revenues with the Agency. Two separate DDRs are required, including a DDR of the housing assets held by the Agency in its Low and Moderate Income Housing Fund (LMIHF) (the "Housing DDR") and a second DDR for the other non-housing account balances (the "Non-Housing DDR"). The Housing DDR has now been completed and was transmitted to the Oversight Board on June 16, 2014.

AB 1484 also requires that the board hold a public comment session on the DDR report at least five business days before holding a meeting to consider approval of the amount of unobligated cash and cash equivalents related to housing assets that are available for disbursement to taxing entities as determined in the DDR report. After receiving public comment, the Oversight Board can consider a resolution to approve the DDR at its next meeting, which has not yet been scheduled.

RECOMMENDED ACTION:

CONDUCT a public comment session to receive comments on the Housing Due Diligence Review.

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FINANCIAL IMPACT OF RECOMMENDATION:

This public comment session provides an opportunity for oral and written objections to the DDR determination regarding unobligated cash or cash equivalents in its LMIHF that are available for disbursement to taxing entities. The Agency's Housing DDR determines that there are no unobligated cash or cash equivalents in its LMIHF available for distribution.

DISCUSSION:*Background*

The Agency transmitted on June 16, 2014 the results of the Housing DDR to the Oversight Board, the State Department of Finance ("DOF"), the State Controller's office ("SCO"), and the Contra Costa Auditor-Controller ("Auditor-Controller"). The Housing DDR has also been made available to the public on the City of Richmond website.

The Housing DDR was performed by Maze & Associates, a licensed accountant with experience and expertise in local government accounting. The selection of the accountant was approved in advance by the Auditor-Controller. The Housing DDR was conducted in accordance with Agreed-Upon Procedures by DOF and SCO for the LMIHF of the former Redevelopment Agency and per the Due Diligence Review requirements identified in Sections 34179.5 of the California Health and Safety Code. Procedures and related findings are identified in the attached Low and Moderate Income Housing Fund Due Diligence report (Attachment 1) prepared by Maze & Associates.

As presented on Attachment B of the Housing DDR report, the Agency's LMIHF cash and cash equivalent balances are committed to enforceable obligations that include the Miraflores, Lillie Mae Jones, and Metrowalk housing projects. The Housing DDR determines that no unobligated cash or cash equivalents are available for disbursement to the taxing entities.

Per AB 1484, a public comment session must be held at least five business days prior to the Oversight Board taking action on the Housing DDR. The public comment session is scheduled during the Oversight Board meeting of June 19, 2014. The Housing DDR will come back to the Oversight Board for its consideration of resolution to approve at its next meeting, to be scheduled at the board's direction.

Next Steps

The Successor Agency continues its efforts to "wind down" the affairs of the dissolved Richmond Community Redevelopment Agency. Staff anticipates completing the second

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“Non-Housing” DDR and scheduling a public comment session for Oversight Board consideration later in June or in July. When both the Housing and Non-Housing DDRs have been approved and accepted by the State Department of Finance, the Agency will be eligible to receive a “Finding of Completion” from the State Department of Finance. After receiving the Finding of Completion, the Agency will next move to complete a Long-Range Property Management Plan (LRPMP) for consideration by the Oversight Board. The LRPMP will address the disposition of the Agency’s real property.

CEQA:

The actions taken by enactment of this resolution do not commit the Oversight Board to any actions that may have a significant effect on the environment. As a result, such actions do not constitute projects subject to the requirements of the California Environmental Quality Act.

DOCUMENT ATTACHMENTS:

Attachment 1 – Low and Moderate Income Housing Fund Due Diligence Report

**INDEPENDENT ACCOUNTANT'S REPORT ON
APPLYING AGREED UPON PROCEDURES ON
THE LOW AND MODERATE INCOME HOUSING FUND
ASSOCIATED WITH CALIFORNIA HEALTH AND SAFETY
CODE SECTIONS 34179.5(c)(1) THROUGH 34179.5(c)(3)
AND SECTIONS 34179.5(c)(5) THROUGH 34179.5(c)(6)
FOR THE SUCCESSOR AGENCY OF THE
CITY OF RICHMOND
COMMUNITY REDEVELOPMENT AGENCY**

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**INDEPENDENT ACCOUNTANT'S REPORT ON
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AND SECTIONS 34179.5(c)(5) THROUGH 34179.5(c)(6)**

To the Oversight Board of the Successor Agency of
the City of Richmond Community Redevelopment Agency
Richmond, California

We have applied the procedures below, which were agreed to by the Successor Agency of the City of Richmond Community Redevelopment Agency (Successor Agency), solely to assist you with respect to the procedures required under California Health and Safety Code Sections 34179.5(c)(1) through 34179.5(c)(3) and Sections 34179.5(c)(5) through 34179.5(c)(6) for the Low and Moderate Income Housing Fund of the Successor Agency for the year ended June 30, 2012, also referred to as the Due Diligence Review by the Code. These procedures were suggested by the Governmental Auditing and Accounting Committee, as agreed to by the California State Department of Finance and State Controller's Office. Management of the Successor Agency is responsible for the accounting records, the Attachments and information provided pertaining to the statutory compliance pursuant to Health and Safety Code Section 34179.5. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of this 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 procedures you requested us to perform and our findings were as follows:

Citation:

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.

Results:

We obtained the following listing from City of Richmond staff and agreed the amount transferred to the Successor Agency to the accounting records without exception.

	Redevelopment Agency Low and Moderate Income Fund Balances January 31, 2012 (Prior to transfer)	Balances transferred to Housing Successor on February 1, 2012	Balances transferred to the Successor Agency on February 1, 2012
ASSETS			
Cash and Investments	\$2,682,973		\$2,682,973
Restricted Cash and Investments	888,839		888,839
Restricted Cash and Investments with Fiscal Agent:			
Debt Service Reserves and Debt Payment Funds	3,278,889		3,278,889
Project Funds	5,520,997		5,520,997
Grant Receivable - Miraflores	1,699,735		1,699,735
Loans Receivable	16,286,781	\$16,286,781	-
Advance to Richmond Housing Authority	174,067	174,067	-
Total Assets	<u>\$30,532,281</u>	<u>\$16,460,848</u>	<u>\$14,071,433</u>

Citation:

34179.5(c)(2) 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.

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 this Agreed Upon Procedures 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.

Results:

The State Controller's Office has completed its review of transfers under Section 34167.5 and issued its report dated November 12, 2013. See Attachment A.

Attachment A indicates the transfer of loans receivable in the amount of \$16,460,848 to the Housing Successor was unallowable because it had not been approved by the Successor Agency's Oversight Board. The Oversight Board approved the transfer of the Housing Assets, including these loans receivable, to the Housing Successor with Resolution 2-14 on February 25, 2014. Therefore, the transfer is not included as an unallowable transfer in Attachment B.

Although the above review was not performed under Section 34178.8, that Section is related to transfers to the City or another public agency after January 31, 2012. Per City staff, the Successor Agency did not make any such transfers.

Citation:

34179.5(c)(3) 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.

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 this Agreed Upon Procedures 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 this Agreed Upon Procedures 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 this Agreed Upon Procedures 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.

Results:

The State Controller's Office has completed its review of transfers under Section 34167.5 and issued its report dated November 12, 2013. See Attachment A.

Attachment A indicates the transfer of loans receivable in the amount of \$16,460,848 to the Housing Successor was unallowable because it had not been approved by the Successor Agency's Oversight Board. The Oversight Board approved the transfer of the Housing Assets, including these loans receivable, to the Housing Successor with Resolution 2-14 on February 25, 2014. Therefore, the transfer is not included as an unallowable transfer in Attachment B.

Although the above review was not performed under Section 34178.8, that Section is related to transfers to the City or another public agency after January 31, 2012. Per City staff, the Successor Agency did not make any such transfers.

Citation:

34179.5(c)(4) The review shall provide 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 Controller for the 2009–10 fiscal year.

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 Attachment A 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 liabilities (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 ended 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.

Results:

Not applicable for the Low and Moderate Income Housing Fund. We have been engaged to perform procedures and issue a separate report on the non-housing assets of the Successor Agency and will provide the results of this procedure in that report.

Citation:

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 all 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.

Results:

We obtained the listing of assets of the Low and Moderate Income Housing Fund of the Successor Agency from City staff and noted that the assets as of June 30, 2012 were comprised of the following:

Cash and Investments	\$2,610,252
Restricted Cash and Investments	888,839
Restricted Cash and Investments with Fiscal Agent:	
Debt Service Reserves	2,865,332
Debt Service Payment Funds	303,393
Project Funds	5,521,155
Grant Receivable - Miraflores	<u>1,532,327</u>
Total Assets	<u><u>\$13,721,298</u></u>

We agreed the balances to the accounting records without exception.

Citation:

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:
- i. 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.)
 - ii. 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).
 - iii. 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.

Results:

We obtained the computation of unspent bond proceeds from City Staff and traced the amounts below to the accounting records without exception:

Unspent Project Funds held by Fiscal Agent:

Loans from Richmond Joint Powers Financing Authority:

2000B Housing Set-Aside Tax Allocation Revenue Bonds	\$945,057 (A)
2004A Tax Allocation Revenue Bonds	734,022 (A)
2004B Tax Allocation Revenue Bonds	1,170,142 (A)
2007B Housing Set-Aside Subordinate Tax Allocation Bonds	2,671,934 (B)

Debt Service Reserve Funds held by Fiscal Agent:

2000B Housing Set-Aside Tax Allocation Bonds	480,448 (C)
2004A Tax Allocation Revenue Bonds	499,918 (C)
2004B Tax Allocation Revenue Bonds	199,967 (C)
2007B Housing Set-Aside Subordinate Tax Allocation Bonds	1,684,999 (D)

Debt Service Payment Funds held by Fiscal Agent:

2004A Tax Allocation Revenue Bonds	303,393 (E)
	<u>\$8,689,880</u>

- (A) The respective Loan Agreements dated November 1, 2000 and October 1, 2004 indicate the loan proceeds are to be used for housing purposes. This restriction appears to be in effect until the funds are expended for the intended purpose.
- (B) The Indenture of Trust dated July 1, 2007 indicates the bond proceeds are to be used to finance low and moderate income housing activities of the Redevelopment Agency pursuant to the Redevelopment Plan and California Redevelopment Law. This restriction appears to be in effect until the funds are expended for the intended purpose.
- (C) The respective Indentures of Trust dated November 1, 2000 and October 1, 2004 indicate that the Debt Service Reserve Accounts were established by the Trustee solely for the purpose of replenishing the Interest account or Principal account of the respective Bonds. This restriction appears to be in effect until the funds are used for the last debt service payment on the Bonds. Although the Indentures of Trust are in the name of Richmond Joint Powers Financing Authority, the former Redevelopment Agency was a member of the Authority and the Successor Agency holds the Debt Service Reserve funds.

- (D) The Indenture of Trust dated July 1, 2007 indicates the Debt Service Reserve account was established to “equal the Debt Service Reserve Requirement for the Bonds then Outstanding” and any excess funds in the Debt Service Reserve are to be transferred to the Interest Account for debt service payments on the Bonds. This restriction appears to be in effect until it is used for the last debt service payment on the Bonds.
 - (E) The Indenture of Trust dated October 1, 2004 indicates the Interest and Principal Accounts are to be used solely to pay debt service on the Bonds. This restriction appears to be in effect until the funds are expended for the intended purpose. Although the Indentures of Trust are in the name of Richmond Joint Powers Financing Authority, the former Redevelopment Agency was a member of the Authority and the Successor Agency holds the Interest and Principal Account funds.
- B. Grant proceeds and program income that are restricted by third parties:
- i. Obtain the Successor Agency’s computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
 - ii. 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).
 - iii. 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.

Results:

Per inquiry of City staff, there were no such grant proceeds or program income related to the Low and Moderate Income Housing Fund as of June 30, 2012.

- C. Other assets considered to be legally restricted:
- i. Obtain the Successor Agency’s computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
 - ii. 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).
 - iii. 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.

Results:

We obtained the listing from City staff of the other assets considered legally restricted as follows:

Sakai Settlement	\$300,000 (A)
2007B Housing Set-Aside Subordinate Tax Allocation Bonds Reserve Subaccount	<u>588,839 (B)</u>
	<u><u>\$888,839</u></u>

- (A) The cash balance of the Sakai settlement in the amount of \$300,000 is restricted for the Miraflores Historical Preservation project until all funds are spent. We traced the balance of the Sakai settlement to the settlement agreement dated June 26, 2006 and the accounting records of the Successor Agency without exception.
- (B) The cash balance of the Reserve Subaccount is based on the requirement of Section 2.06 of the First Supplemental Indenture of Trust dated July 1, 2007 that requires the Trustee to establish and maintain within the Debt Service Reserve Account a sub account. The balance in the sub account is to be based on an annual calculation included in the Certificate of an Independent Redevelopment Consultant. This requirement appears to be in effect so long as the Bonds are outstanding.

The balance of the sub account in the Successor Agency's accounting records at June 30, 2012 was \$588,839, which agrees to the Certificate of the Independent Redevelopment Consultant Report dated October 31, 2011.

- D. Attach the above mentioned Successor Agency prepared schedule(s) as an exhibit to the AUP report. For each restriction identified on these schedules, indicate in the report the period of time for which the restrictions are in effect. If the restrictions are in effect until the related assets are expended for their intended purpose, this should be indicated in the report.

Results:

See responses at Procedures 6A and 6C.

Citation:

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.

Results:

We obtained a listing of non-liquid assets of the Low and Moderate Income Housing Fund of the Successor Agency as of June 30, 2012 provided by City staff and noted that the non-liquid assets are comprised of grants receivable in the amount of \$1,532,327, less \$1,457,490 of net collections subsequent to June 30, 2012, for a net non-liquid asset balance of \$74,837.

The collections subsequent to June 30, 2012 were greater than the \$1,457,490, but Successor Agency staff indicated that the total amount collected included costs incurred prior to and subsequent to June 30, 2012. The balance of \$74,837 is the Successor Agency's estimate of the outstanding net grant receivable that has not been collected to date. The Successor Agency provided a list of vendor payments for the period September 17, 2013 through December 31, 2013 that comprise the reported receivable balance of \$74,837. We noted that the amount is listed at book value (cost).

- 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.

Results:

We agreed the grants receivable balance of \$1,532,327 to the June 30, 2012 accounting records of the Successor Agency. See 7A above for the net non-liquid asset balance.

- 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.

Results:

This procedure is not applicable – the assets were not disposed.

- 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.

Results:

Not applicable- the assets are listed at book value (cost).

Citation:

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.
 - i. 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.
 - ii. Compare all current balances to the amounts reported in the accounting records of the Successor Agency or to an alternative computation.
 - iii. Compare the specified enforceable obligations to those that were included in the final Recognized Obligation Payment Schedule approved by the California Department of Finance.
 - iv. 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.

Results:

Per City staff, the Successor Agency believes that cash balances in the amount of \$7,934,094 at June 30, 2012 need to be retained to satisfy enforceable obligations as detailed in the table below. For each obligation listed in the table below, we traced to legal documentation as noted below the table.

Miraflores Pollution Liability	\$1,956,639 (A)
EPA Brownfields Revolving Loan Fund Advance to Miraflores Project	600,000 (B)
Lillie Mae Jones	1,516,455 (C)
Metrowalk Housing	<u>3,861,000 (D)</u>
Total	<u><u>\$7,934,094</u></u>

- (A) We agreed the obligation to the calculation of the future estimated pollution remediation liability as of June 30, 2012 and the Successor Agency’s accounting records. The Redevelopment Agency entered into a voluntary Cleanup Agreement with the California Department of Toxic Substance Control on November 31, 2005, and the Department of Finance approved the project as an Enforceable Obligation in its letter to the Successor Agency dated December 18, 2012.
- (B) We agreed the obligation to the loan agreement dated February 16, 2011 for a loan from the Redevelopment Agency’s U.S. EPA Brownfields Revolving Loan Funds to the Redevelopment Agency’s Miraflores housing remediation project and to the Successor Agency’s accounting records. Repayment of the loan is due within five years of disbursement. We traced the project to the approved ROPS for the period January 1, 2014 through June 30, 2014. The Successor Agency has indicated that no disbursements were made through June 30, 2013 and the repayment to the revolving loan fund remains an encumbrance against its available cash balance at June 30, 2012.
- (C) We agreed the obligation to a loan agreement dated January 19, 2010, as amended on April 30, 2010, between the Redevelopment Agency and the Lillie Mae Jones LP. We noted that the agreement indicates that the loan obligation was intended to be funded from 2007B Bond Proceeds (\$1,953,709) and Section 108 loan proceeds (\$84,000). The balance of the undisbursed loan funding as of June 30, 2012 was comprised of 2007B Housing Bond Proceeds of \$1,432,455 and Section 108 loan proceeds of \$84,000. Although the loan agreement states it is intended to be funded by the 2007B Housing Bond Proceeds and Section 108 loan proceeds, the Successor Agency has assigned those funds to other projects. Therefore, the Successor Agency has indicated that its loan obligation remains an encumbrance against its available housing cash balance at June 30, 2012.
- (D) We agreed the obligation to the tri-party Disposition and Development Agreement (DDA) dated April 11, 2002 between the Redevelopment Agency, the San Francisco Bay Area Rapid Transit District and Richmond Transit, LLC, indicating the loan is to fund the Phase Two Development Loan which is for payment of a portion of the costs of construction and development of the Phase Two Residential/Retail Improvements. Although the DDA does not specify what portion of the Phase Two Development Loan is to be funded by low and moderate income housing funds, Section 403.1 indicates that “...not fewer than half of the Residential Units...shall be sold to Moderate Income Households...”

Since the Successor Agency is unsure of the final composition of funding under the loan between housing and non-housing funds, the Successor Agency has included that the full amount of the Phase Two Development Loan as a restriction of housing funds and no amount has been reflected as a restriction in Procedure 8 of the All Other Funds Due Diligence Review.

The Department of Finance indicated the agreement was not an enforceable obligation for the July 2012 to December 2012 ROPS period. The Successor Agency has indicated that it provided additional information to the Department of Finance in October 2012. The project was subsequently included in the approved ROPS for the period January 2013 to December 2013.

- 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:
- i. 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.
 - ii. Compare the forecasted annual spending requirements to the legal document supporting each enforceable obligation.
 1. 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.
 - iii. For the forecasted annual revenues:
 1. Obtain from the Successor Agency its assumptions for the forecasted annual revenues and disclose in the report major assumptions associated with the projections.

Results:

Per inquiry of City staff, there are no projected future housing revenues and no enforceable obligations other than those included in Procedure 8A for the Low and Moderate Income Housing Fund of the Successor Agency for the periods January 1, 2012 through June 30, 2012 and July 1, 2012 through December 31, 2012.

- 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.
- i. Compare the timing and amounts of bond debt service payments to the related bond debt service schedules in the bond agreement.
 - ii. Obtain the assumptions for the forecasted property tax revenues and disclose major assumptions associated with the projections.
 - iii. Obtain the assumptions for the forecasted other general purpose revenues and disclose major assumptions associated with the projections.

Results:

Not applicable, as the Successor Agency believes that projected property tax revenues are sufficient to pay bond debt service payments.

- 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.
- i. 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.
 - ii. 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.
 - iii. Include the calculation in the AUP report.

Results:

See Procedure 8A above. The Low and Moderate Income Housing Fund did not receive any distributions from the ROPS period January 2012 to June 2012 or the ROPS period July 2012 to December 2012.

Citation:

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.

Results:

Per inquiry of City staff, the cash balances of the Low and Moderate Income Housing Fund of the Successor Agency do need to be retained to satisfy obligations on the Recognized Obligation Payment Schedule for the period of July 1, 2012 through June 30, 2013, which are included in Procedure 8 above.

Citation:

34179.5(c)(6) 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.

Suggested Procedure(s):

10. Include (or present) a schedule detailing the computation of the Balance Available for Allocation to Affected Taxing Entities (Attachment B). 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 example summary schedule may 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).

Results:

See Attachment B.

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.

Results:

Management signed and provided the representation letter dated June 11, 2014 without exception.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion on the information provided for the purposes of the agreed-upon procedures and the Attachments. Accordingly, we do not express such an opinion. Had we performed additional procedures or had we performed an audit of the information provided for the purposes of the agreed-upon procedures and the Attachments, matters might have come to our attention which would have been reported to you.

This report is intended solely for the information and use of management and the Oversight Board, the State Department of Finance and the State Controller's Office; however, this restriction is not intended to limit the distribution of this report, which is a matter of public record.

Maize & Associates

June 11, 2014

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RICHMOND COMMUNITY REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

November 2013



JOHN CHIANG
California State Controller

November 12, 2013

Patrick Lynch, A.I.C.P., Housing Director
Richmond Community Redevelopment Agency
440 Civic Center Plaza
Richmond, CA 94804-1630

Dear Mr. Lynch:

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

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

Our review found that the Richmond Community Redevelopment Agency transferred \$173,925,297 in assets after January 1, 2011, including unallowable transfers totaling \$64,644,907 (\$48,184,059 to the City and \$16,460,848 to the entity assuming the housing functions), or 37.17% of the total assets. Unallowable transfers include:

- \$42,612,267 for improvements to City-owned capital assets. On June 20, 2013, the Oversight Board approved the transfer; therefore, no further action is necessary.
- \$5,571,792 in land to the City. On May 2, 2013, the journal entry for this transfer was reversed; therefore, no further action is necessary.

The remaining \$16,460,848 in assets must be turned over to the Successor Agency.

Patrick Lynch, A.I.C.P., Housing Director -2-

November 12, 2013

If you have any questions, please contact Elizabeth Gonzalez, Bureau Chief, Local Government Compliance Bureau, by phone at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Bill Lindsay, City Manager
Richmond Community Redevelopment Agency
Robert Campbell, Auditor-Controller
Contra Costa County
David Botelho, Program Budget Manager
State Department of Finance
Linda Jackson-Whitmore, Oversight Board Chairman
c/o Richmond Community Redevelopment/Successor Agency
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth Gonzalez, Bureau Chief
Division of Audits, State Controller's Office
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Cecelia Michaels, Auditor-in-Charge
Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Richmond Community Redevelopment Agency (RDA) after January 1, 2011. Our review included, but was not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payments of any kind from any source.

Our review found that the RDA transferred \$173,925,297 in assets after January 1, 2011, including unallowable transfers totaling \$64,644,907 (\$48,184,059 to the City of Richmond and \$16,460,848 to the entity assuming the housing functions), or 37.17% of the total assets. Unallowable transfers include:

- \$42,612,267 for improvements to City-owned capital assets. On June 20, 2013, the Oversight Board approved the transfer of the improvements to City owned assets; therefore, no further action is necessary.
- \$5,571,792 in land to the City. On May 2, 2013, the journal entry for this transfer was reversed; therefore, no further action is necessary.

The remaining \$16,460,848 in assets must be turned over to the Successor Agency.

Background

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

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

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

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

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

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

Objective, Scope, and Methodology

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

We performed the following procedures:

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

Conclusion

Our review found that the RDA transferred \$173,925,297 in assets after January 1, 2011, including unallowable transfers totaling \$64,644,907 (\$48,184,059 to the City of Richmond and \$16,460,848 to the entity assuming the housing functions), or 37.17% of the total assets. Unallowable transfers include:

- \$42,612,267 for improvements to City-owned capital assets. On June 20, 2013, the Oversight Board approved the transfer of the improvements to City owned assets; therefore, no further action is necessary.
- \$5,571,792 in land to the City. On May 2, 2013, the journal entry for this transfer was reversed; therefore, no further action is necessary.

The remaining \$16,460,848 in assets must be turned over to the Successor Agency.

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

**Views of
Responsible
Official**

We issued a draft report on September 19, 2013. Patrick Lynch, A.I.C.P., Housing Director, responded by letter dated October 3, 2013, agreeing with the review results. Mr. Lynch indicated that he had no additional comments to the draft report. The City's response is included in this final review report as an attachment.

Restricted Use

This report is solely for the information and use of the City of Richmond, the Successor Agency, the Oversight Board, the entity assuming the housing functions, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

November 12, 2013

Findings and Orders of the Controller

FINDING 1— Unallowable assets transferred to the City of Richmond

The Richmond Community Redevelopment Agency (RDA) transferred \$48,184,059 in assets to the City of Richmond. All of the asset transfers to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- The RDA transferred \$42,612,267 to the City in capital improvements for various City properties. The title to the properties remained with the City during the construction. On June 20, 2013, the Oversight Board retroactively approved this transfer by Resolution No 4-13 because the assets were deemed to be for a governmental purpose. Therefore, no further action is necessary.
- On March 26, 2011, the RDA transferred \$5,571,792 in land to the City. The transfer was reversed on May 2, 2013. Therefore, no further action is necessary.

Pursuant to H&S Code section 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011. Those assets should be turned over to the Successor Agency for disposition in accordance with H&S Code sections 34177 (d) and (e). However, it appears that some of those assets also may be subject to the provisions of H&S Code section 34181(a). H&S Code section 34181(a) states:

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

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

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfer of the assets and turn them over to the Successor Agency for disposition in accordance with H&S Code sections 34177(d) and (e). However, as the Oversight Board approved the transfer of the governmental purpose assets and the City reversed the transfer of the land, no further action is necessary.

Note that, with regards to the governmental purpose assets that were approved by the Oversight Board, the Department of Finance (DOF) must approve the Oversight Board's decision in this matter. If the DOF does not approve this decision, the City is ordered to transfer those assets to the Successor Agency pursuant to H&S Code section 34167.5.

City's Response

The City agreed with the findings noted in the draft report and did not have any additional comments.

SCO's Comments

The finding and Order of the Controller remains as stated.

FINDING 2— Unallowable assets transferred to the entity assuming the housing functions

The RDA made an unallowable asset transfer of \$16,460,848 to the entity assuming the housing functions. Those assets consisted of loan receivables.

The asset transfer to the entity assuming the housing functions occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Pursuant to H&S Code section 34175(b), the RDA was required to transfer all assets, including housing assets, to the Successor Agency. Those assets should be turned over to the Successor Agency for disposition in accordance with H&S Code sections 34177(d) and (e).

H&S Code section 34175(b) states that all assets, properties, contracts, leases, books and records, buildings, and equipment of the former were transferred on February 1, 2012, to the control of the Successor Agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the RDA as of February 1, 2012.

Additionally, H&S Code section 34181(c) requires the oversight board to direct the Successor Agency transfer housing assets pursuant to Section 34176.

Order of the Controller

Based on H&S Code section 34167.5, the entity assuming the housing functions is ordered to return the assets, described in Schedule 2, in the amount of \$16,460,848, and turn them over to the Successor Agency.

The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e) and 34181(c).

City's Response

The City agreed with the findings noted in the draft report and did not have any additional comments.

SCO's Comments

The finding and Order of the Controller remains as stated.

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

Unallowable Asset Transfers to the City of Richmond:

Capital Assets

Capital improvements to City property	\$ 42,612,267
Oversight Board retroactively approved the transfer on June 20, 2013	(42,612,267)
Land parcels transferred to the City	5,571,792
Land parcel transfers were reversed by the Successor Agency on May 2, 2013	<u>(5,571,792)</u>
Total Transfers subject to H&S Code section 34167.5	<u>\$ —</u>

**Schedule 2—
Unallowable RDA Asset Transfers
to the Entity Assuming the Housing Functions
January 1, 2011, through January 31, 2012**

Unallowable Asset Transfers to the Entity Assuming the Housing Functions:

Current assets

Loans receivable	\$ 16,460,848
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Total unallowable asset transfers	<u>\$ 16,460,848</u>
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**Attachment—
City of Richmond’s Response to
Draft Review Report**

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY



October 3, 2013

Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office – Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Draft Asset Transfer Review Report

Dear Mr. Mar

The Successor Agency to the Richmond Community Redevelopment Agency ("Agency") is in receipt of the State Controller's Office letter of September 19, 2013 and accompanying draft report prepared pursuant to Health and Safety Code ("HSC") Section 34167.5 and dated September 2013 ("Draft Report"). The Agency appreciates the assistance provided by the State Controller to help ensure that we understand our responsibilities to successfully comply with new state redevelopment laws. We offer the following responses to the State Controller's two findings in the Draft Report.

Finding #1 - Unallowable Capital Asset transfers to the City of Richmond

We are pleased that the State Controller has acknowledged the Agency's actions to self-correct \$48 million in asset capital asset transfers. With approval of the Oversight Board for the Successor Agency to the Richmond Community Redevelopment Agency ("Oversight Board"), the Agency has already taken the corrective actions necessary to bring its capital asset transfers into compliance with new state laws. The Agency's \$48 million investment in important infrastructure improvements to City capital assets is now properly recorded in the City's financial records.

Finding #2 - Low/Moderate Income Housing Loans

The Agency is also pleased that \$16.4 million in redevelopment housing loan assets have helped deliver important low/moderate income housing projects in the City of Richmond. Consistent with the requirements of AB 1X 26 and AB 1484, this investment in low/moderate income housing programs has been preserved by the transfer of the low/moderate income loan portfolio to the new Successor Housing Agency that is charged with ongoing accountability for housing assets. The Agency's transfer to the Successor Housing Agency has been reported and approved by the State Department of Finance in its Housing Asset Transfer review.

We appreciate the additional recommendation provided by the State Controller to report and seek approval of this transfer by the Oversight Board. We understand the important role the Oversight Board serves in monitoring the financial affairs of the Agency and, in particular, monitoring the distribution of its assets in conformance with redevelopment dissolution law. An agenda report has been drafted to

Steven Mar, SCO
10/3/2013
Page 2

request Oversight Board review and approval of this housing loan portfolio transaction. With Oversight Board approval, we understand this finding will be resolved.

Finally, we would like to clarify that the housing loan portfolio is held by the City in its capacity as the Successor Housing Agency. The references to the Richmond Housing Authority in this report appear to be an oversight; the Housing Authority has not been involved with this transaction or with redevelopment dissolution.

Thank you for the opportunity to comment on the draft report. Please feel free to contact Agency staff at (510) 621-1730 with any questions.

Sincerely,

Pp:



Patrick Lynch, AICP, Housing Director
Successor Agency to the Richmond Community Redevelopment Agency

Cc (VIA EMAIL):

Bill Lindsay, City Manager, City of Richmond
Cecelia Michaels, Auditor-in-charge, State Controller's Office

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

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

ATTACHMENT B

SUCCESSOR AGENCY TO THE CITY OF RICHMOND COMMUNITY REDEVELOPMENT AGENCY

**SUMMARY OF BALANCES AVAILABLE FOR ALLOCATION TO AFFECTED TAXING ENTITIES
(Low and Moderate Income Housing Fund)**

Total amount of assets held by the successor agency as of June 30, 2012 (procedure 5)	\$13,721,298
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)	(9,578,719)
Less assets that are not cash or cash equivalents (e.g., physical assets) - (procedure 7)	(74,837)
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)	(7,934,094)
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	<u><u>(\$3,866,352)</u></u>

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Oversight Board Members:

Linda Jackson-Whitmore, Chair
Chadrick Smalley, Vice Chair

John Marquez
Jeff Lee

Whitney Dotson
Janet Johnson

Sheri Gamba



**SUCCESSOR AGENCY TO THE
RICHMOND COMMUNITY
REDEVELOPMENT AGENCY**

AGENDA REPORT

DATE: June 19, 2014

TO: Honorable Chairperson Linda Jackson-Whitmore and Members of the Oversight Board of the Successor Agency to the Dissolved Richmond Community Redevelopment Agency

FROM: Successor Agency Staff

SUBJECT: AMENDMENT OF SWAP AGREEMENT

STATEMENT OF THE ISSUE:

Staff is seeking adoption of a resolution approving the amendment of the swap agreement relating to the interest rate swap dated June 26, 2007.

RECOMMENDED ACTION:

CONSIDERATION of adopting a resolution amending a swap agreement relating to the interest rate swap dated June 26, 2007, and authorizing and approving certain actions taken in connection therewith..

FINANCIAL IMPACT OF RECOMMENDATION:

There is no financial impact

DISCUSSION:

In 2007 and 2010, in conjunction with the issuance of the Subordinate Tax Allocation Bonds (Merged Project Areas) 2007 Series A and the 2010 Subordinate Tax Allocation Refunding Bonds Series A, the Richmond Community Redevelopment Agency ("RCRA") entered into interest rate swap agreements with Royal Bank of Canada, to reduce the amount of interest rate risk and lower the cost of borrowing. Subsequent to the signing of these agreements, California Assembly Bill No. 26 ("AB XI 26") was enacted on June 29, 2011. AB XI 26 dissolved all redevelopment agencies and community development agencies in existence in the State of California as of February

Oversight Board Members:

Linda Jackson-Whitmore, Chair
Chadrick Smalley, Vice Chair

John Marquez
Jeff Lee

Whitney Dotson
Janet Johnson

Sheri Gamba

1, 2012, and designated “successor agencies” to satisfy enforceable obligations of the former redevelopment agencies, while also administering dissolution tasks and winding down the former agencies. The City of Richmond has been designated as the Successor Agency to the former RCRA.

In April 2014, the Successor Agency issued its Refunding Bonds Series 2014A (Tax-Exempt) and Series 2014B (Taxable) to refund four prior bond issues. As a result of the refunding of the prior bonds, and the issuance of the 2014 bonds, the priority of the various revenue pledges relating to the remaining bonds changed. The proposed changes to the interest rate swap are as follows:

- Names the City of Richmond as Successor Agency to the former Richmond Community Redevelopment Agency as the Counterparty to the interest rate swap (prior agreements named the Richmond Community Redevelopment Agency)
- Any payments resulting from a termination of the interest rate swap will be subordinate to payments to bondholders. Subordination of the interest rate swap is a requirement by S&P for the A- rating on the bonds, as it provides protection to the bondholders.

CEQA:

The actions taken by enactment of this resolution do not commit the Oversight Board to any actions that may have a significant effect on the environment. As a result, such actions do not constitute projects subject to the requirements of the California Environmental Quality Act.

DOCUMENTS ATTACHED:

Attachment 1- Proposed Resolution

Attachment 2- Form of Interest Rate Swap Amendment

RESOLUTION NO. _____

RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY'S AUTHORIZATION OF AN AMENDMENT OF A SWAP AGREEMENT FOR THE PURPOSE OF SUBORDINATING THE TERMINATION PAYMENT DUE THEREUNDER TO THE PAYMENT OF DEBT SERVICE ON THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY REFUNDING BONDS SERIES 2014A (TAX-EXEMPT) AND SERIES 2014B (TAXABLE) AND AUTHORIZING AND APPROVING CERTAIN ACTIONS TAKEN IN CONNECTION THEREWITH

WHEREAS, pursuant to Health and Safety Code section 34173(d), the City of Richmond (the "Successor Agency") is the successor agency to the Richmond Community Redevelopment Agency ("Prior Agency"), confirmed by Resolution No. 4-12 adopted on January 24, 2012; and

WHEREAS, Health and Safety Code section 34179(a) provides that each successor agency shall have an oversight board composed of seven members; and

WHEREAS, the Successor Agency has duly established such oversight board (the "Oversight Board") pursuant to Health and Safety Code section 34179(a); and

WHEREAS, the Oversight Board is informed by the Successor Agency that pursuant to Resolution No. _____ of the Successor Agency, adopted on June 17, 2014, the Governing Board of the Successor Agency has approved the execution of an amendment (the "Amendment") to an Interest Rate Swap Agreement, dated June 26, 2007, with Royal Bank of Canada ("RBC"), including an offsetting interest rate swap agreement with RBC pursuant to an Amended and Restated Schedule and an Amended Confirmation, dated March 31, 2010; and

WHEREAS, a form of Amendment (the "Amendment") between RBC and the Successor Agency has been presented to the Oversight Board; and

WHEREAS, the Oversight Board is informed by the Successor Agency that the Amendment, substantially in the form on file with the Oversight Board, would reduce liabilities of the Successor Agency and increase net revenues to the "taxing entities" as defined in Section 34171(k) of the California Health and Safety Code; and

WHEREAS, the Oversight Board hereby finds that in accordance with California Health and Safety Code Section 34181(e), the Amendment, substantially in the form on file with the Oversight Board, would be in the best interest of certain "taxing entities" as defined by Section 34171(k) of the California Health and Safety Code; and

WHEREAS, the Oversight Board now wishes to approve the action taken by the Successor Agency;

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by reference.

Section 2. Approval of Amendment. This Oversight Board hereby approves the Successor Agency's authorization of the Amendment, including Resolution No. _____ of the Successor Agency, adopted by the Successor Agency on June 17, 2014 authorizing the Amendment.

Section 3. Approval of Document. The form of Amendment in substantially the form on file with this Oversight Board on or prior to this meeting is hereby approved, with such insertions, deletions or changes therein as the officers executing and delivering the same may require or approve, such approval to be conclusively evidenced by execution and delivery thereof.

Section 4. Findings. The Oversight Board finds and determines that in accordance with California Health and Safety Code Section 34181(e), the Amendment, substantially in the form on file with the Oversight Board, would be in the best interest of the "taxing entities" as defined by Section 34171(k) of the California Health and Safety Code.

Section 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6. Effective Date. Pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance (the "DOF"), and, therefore, this Resolution shall not be effective for five (5) business days from the date of its adoption and receipt of written notice of its adoption by the DOF, subject to the DOF's request for a review.

I certify that the foregoing Resolution was passed and adopted by the Oversight Board, at a regular meeting held on _____, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Chairperson

Oversight Board Secretary

AMENDMENT

AMENDMENT dated as of April 29, 2014 (the "Amendment") to the ISDA Master Agreement between **ROYAL BANK OF CANADA** (herein called "Party A") and **SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY** (herein called "Party B").

WITNESSETH:

WHEREAS the parties have previously entered into that certain ISDA Master Agreement dated as of June 26, 2007, (the "Agreement"), which includes the Schedule (as amended from time to time) and all Confirmations confirming the Transactions thereunder; and

WHEREAS the parties now desire to amend the Agreement to reflect the foregoing and certain other changes to the Agreement as described herein;

NOW THEREFORE, in consideration of the mutual agreements contained herein and in the Agreement, the parties hereto agree as follows:

1. **Name of Party B.** The Agreement is hereby amended such that the name of Party B written throughout the Agreement shall be replaced with "Successor Agency to the Richmond Community Development Agency".

2. **Security and Source of Payment for Party B.** Part 5(12) of the Schedule is hereby amended by deletion in its entirety and replaced with the following:

“12. **Security and Source of Payments for Party B.** Party B has pledged Subordinate Pledged Tax Revenues to secure payment of its obligations under this Agreement pursuant to the Covered Agreement. Such pledge constitutes a lien on Subordinate Pledged Tax Revenues as follows: Regularly scheduled swap payments to be made under this Agreement are on parity with debt service on the Bonds while any termination payments (the "Termination Payments") to be made by Party B to Party A under this Agreement shall be subordinate to the payment of the Richmond Community Redevelopment Agency Subordinate Tax Allocation Refunding Bonds (Merged Project Areas), 2010 Series A, the Successor Agency to the Richmond Community Redevelopment Agency Refunding Bonds Series 2014A (Tax Exempt), and the Successor Agency to the Richmond Community Redevelopment Agency Refunding Bonds Series 2014B (Taxable).”

3. **Additional Definitions.** The definition of "Bonds" in Part 5(14)(a) of the Schedule is hereby deleted in its entirety and replaced with the following:

“(a) "Bonds" means the \$33,740,000 Richmond Community Redevelopment Agency Subordinate Tax Allocation Refunding Bonds (Merged Project Areas) 2010 Series A.”

4. **Ratification.** Except as modified herein, the Agreement is ratified and confirmed in all respects by both Party A and Party B.

[Signature page follow]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

ROYAL BANK OF CANADA

**SUCCESSOR AGENCY TO THE
RICHMOND COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature page to Amendment to the ISDA Master Agreement]



**SUCCESSOR AGENCY TO THE
RICHMOND COMMUNITY
REDEVELOPMENT AGENCY**

AGENDA REPORT

DATE: June 19, 2014

TO: Honorable Chairperson Linda Jackson-Whitmore and Members of the Oversight Board of the Successor Agency to the Dissolved Richmond Community Redevelopment Agency

FROM: Patrick Lynch, Housing Director

SUBJECT: EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT FOR THE MIRAFLORES HOUSING DEVELOPMENT PROJECT

STATEMENT OF THE ISSUE:

Staff is seeking authorization to enter into Exclusive Right to Negotiate Agreements (ERNs) with 1) Miraflores Community Devco., LLC (MCD) to develop market rate homeownership units and 2) Community Housing Corporation of North Richmond (CHDC) and Eden Housing Inc. (Eden) to develop affordable senior housing rental units at the proposed Miraflores Housing Development site located at So. 47th Street and Florida Avenue (Site).

RECOMMENDED ACTION:

Authorize the City Manager or designee to negotiate and execute Exclusive Right to Negotiate Agreements (ERNs) with 1) Miraflores Community Devco., LLC (MCD) for the purchase and development of market rate homeownership units on a 7+ acre portion of the Site; and 2) Community Housing Corporation of North Richmond (CHDC) and Eden Housing Inc. (Eden) for the development of affordable senior housing rental units on a 1.5 acre portion of the Site. The granting of ERNs with these entities does not constitute approval of a specific project.

FINANCIAL IMPACT OF RECOMMENDATION:

MCD will pay a \$200,000 nonrefundable deposit within 10 days of approval/execution of its ERN. There is no deposit required from the affordable senior housing developers.

BACKGROUND:

The former Richmond Community Redevelopment Agency (former Agency) purchased the parcels that constitute the Miraflores property (three former Japanese flower nursery sites and the Carey parcel) in June 2006 and May 2009 respectively, with the intention of remediating the contaminated sites for housing development under the Polanco Act, a California law that provided redevelopment agencies that clean up contamination caused by others with strong state environmental liability protections that run with the land for the benefit of redevelopment agencies and future developers.

CHDC and Eden are cosigners along with the former Agency of that certain Voluntary Cleanup Agreement with the Department of Toxic Substance Control ("DTSC") dated October 31, 2005 (VCA) for the completion of cleanup and remediation activities at the Site. The VCA was amended on September 1, 2009 to add the Carey parcel under the VCA.

CHDC and Eden entered into an Exclusive Right to Negotiate (ERN) agreement with the former Agency dated June 28, 2006 for the development of rental housing units affordable to seniors (Prior ERN) at the Site. The Prior ERN was amended on January 24, 2007, March 24, 2007, March 24, 2008, March 24, 2009, March 24, 2010 and January 4, 2011 to extend the exclusive negotiation period. The Prior ERN has expired.

A California Environmental Quality Act (CEQA) process was completed and certified by the City Council on December 15, 2009. The Environmental Impact Report (EIR) prepared under CEQA considered the impacts associated with potential development of up to 330 units of mixed income housing on the Site. A Miraflores Housing Development Planned Area Plan was approved in 2010 for 230 units of housing, consisting of 150 units of market rate housing and 80 units of affordable senior apartments. For sale homeownership units will be located on approximately 7.21 acres of the Site. The affordable senior housing rental development will be located on a 1.5 acre parcel along the western border of the Site. Both the EIR and a National Environmental Protection Act (NEPA) Environmental Analysis (EA) included an analysis of impacts associated with various alternatives presented in the Remedial Action Plan (RAP) for the cleanup and remediation of hazardous materials contamination on the Site. The Final RAP was approved by DTSC in January 2010.

Staff has been working for the past 10 years to assemble funding in support of cleanup, remediation, infrastructure and housing development at the Site. Staff has been successful in securing both federal and State grants that currently comprise

approximately 80% of the total cleanup cost. Additionally, staff has secured funding for the implementation of a Sustainable Community Greenbelt along the eastern border of the Site. This greenbelt open space will provide active and passive recreational areas, have space designated for the relocation of historic green houses and will restore and daylight Baxter creek in a meandering riparian corridor. Most recently, the proposed affordable senior housing rental development was awarded a \$3.3 million grant from the State utilizing Prop 1C Infill Infrastructure funds to support the construction of infrastructure improvements at the Site.

Below is a chart summarizing the funding sources and uses related to Miraflores Housing Development Project.

Funding source	Agency type	Uses	Amount	Type
EPA	Federal	Cleanup and remediation	\$2,200,000.00	Loans and grants
HUD	Federal	Predevelopment: Environmental and financial feasibility related to housing development	\$1,425,000.00	Predevelopment loans
Cal ReUSE	State of California	Cleanup and remediation, Affordable housing development	\$2,645,600.00	Grant
Urban Greening Grant	State of California	Sustainable Greenbelt	\$1,664,219.00	Grant
Coastal Conservancy	State of California	Sustainable Greenbelt	\$500,000.00	Grant
Prop 1C Infill Infrastructure Program	State of California	Senior housing infrastructure Sustainable Greenbelt	\$3,312,544.00	Grant-award pending
Totals			\$11,747,363.00	

Cleanup and remediation activities have been ongoing at the Site since the spring of 2011. Site remediation is anticipated to be completed by the third quarter of this year. DTSC provides oversight and monitoring of the cleanup process. Staff anticipates DTSC will issue a certificate of clearance once all remediation activities and appropriate sampling confirmations are complete.

DISCUSSION:

In anticipation of the completion of cleanup and remediation activities at the Site, Successor Agency staff issued a Request for Proposals (RFP) for a market rate developer on December 20, 2013. The original deadline for RFP responses was extended from February 27, 2014 to March 13, 2014. Two developers responded to the RFP. A staff panel made up of Successor Agency, Planning, Finance and Employment and Training Department Directors interviewed the respondents. Based on the scores received by both respondents, staff recommendation is to proceed with negotiations with MCD.

According to information in their response packet, MCD principals have completed the development of 75,000 residential units since 1996. A partial list of past projects includes housing in Arizona, California and Alberta, Canada. Their California portfolio includes single family units in Palmdale, Stockton and Yuba County and a condominium development at 88 King Street in San Francisco. MCD has secured two private equity groups ready to provide the financing for development at the Site. The MCD team also includes the architectural experience of the Gonzales Architects. Irving Gonzales developed the LEED ND approved Master Plan for the Miraflores Housing Development in 2009. That plan received a 2012 Gold Nugget Award for Merit Honors.

CHDC and Eden have been long time partners with the former Agency and then the Successor Agency on the development of the Site. CHDC first brought the idea of purchasing the Site for development to the former Agency in the early 2000s. It was CHDC and Eden who first applied for EPA grant dollars to support the cleanup in 2004 and then again in conjunction with former Agency in 2005. These partners have worked with staff collaboratively on other successful grant applications and are cosigners to the VCA. The Prior ERN with these two non-profit developers has expired primarily due to the protracted cleanup process and then to the dissolution of the former Agency.

CHDC and Eden are ready to apply for and secure the final financial investment sources (likely through a Tax Credit application) for the affordable senior housing development. They intend to apply for a Tax Credit allocation in March of 2015, with a housing construction start date possible in the fall of 2015. One of the critical requirements for that application is the execution of a Land Development Agreement (LDA) with the Successor Agency securing their control of the senior housing site for development. The ERN is a necessary antecedent agreement to the LDA.

An ERN is a tool used by parties to engage in fact finding around the feasibility of a development project. It is in essence a contractual commitment requiring both parties to use their best efforts within a specified time to complete due diligence and enter into an LDA. The LDA is the binding contractual document that will grant the developer the actual rights to own and construct the project.

Staff recommends approval of ERNs with MCD for the development of the market rate units and with CHDC and Eden for the development of the affordable senior housing units.

DOCUMENTS ATTACHED:

Attachment 1- Resolution

Attachment 2- Draft ERN Miraflores Community Devco., LLC (MCD)

Attachment 3- Draft ERN (CHDC and Eden)

RESOLUTION NO. _____

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE DISSOLVED RICHMOND COMMUNITY REDEVELOPMENT AGENCY AUTHORIZING THE EXECUTIVE DIRECTOR OF THE SUCCESSOR AGENCY TO NEGOTIATE AND EXECUTE, ON BEHALF OF THE SUCCESSOR AGENCY, EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENTS WITH 1) MIRAFLORES COMMUNITY DEVCO., LLC, A MARKET RATE DEVELOPER, AND 2) COMMUNITY HOUSING DEVELOPMENT CORPORATION OF NORTH RICHMOND AND EDEN HOUSING INC., NONPROFIT HOUSING DEVELOPERS, FOR THE CONSTRUCTION OF FOR-SALE MARKET RATE SINGLE FAMILY AND AFFORDABLE SENIOR RENTAL HOUSING, RESPECTIVELY, ON PORTIONS OF THE MIRAFLORES HOUSING DEVELOPMENT SITE

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to make certain payments; and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association v. Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement; and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27 and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, in accordance with Health and Safety Code Section 34173, the Successor Agency to the Richmond Community Redevelopment Agency (the "Successor Agency") was created on January 24, 2012; and

WHEREAS, on January 24, 2012, the City of Richmond elected to retain the housing assets and functions previously performed by the Richmond Community Redevelopment Agency (the "former Agency") in its capacity as the Successor Housing Agency (the "Successor Housing Agency") pursuant to Health and Safety Code Section 34176 (a) (1); and

WHEREAS, on June 27th, 2012, AB 1484 was enacted, which act provided clarifications of provisions in AB1X26 (AB1x26 and AB 1484 are collectively referred to herein as the "Dissolution Act"); and

WHEREAS, Section 34179(a) of the Health and Safety Code provides for the establishment of an Oversight Board to the Successor Agency (the "Oversight Board"); and

WHEREAS, the Successor Agency owns certain real property commonly known as the Miraflores Housing Development site, a 14 acre parcel bounded on the north by a portion of the BART rail line, to the east by Highway 80, to the south by Florida and Wall Avenues and to the west by South 45th and South 47th Streets (the “Property”); and

WHEREAS, the Successor Agency desires to assist with the development of for-sale market rate housing and affordable senior rental housing as proposed for the Property (the “Project”); and

WHEREAS, Community Housing Development Corporation of North Richmond (“CHDC”) and Eden Housing, Inc. (“Eden”) were partners with the former Agency on the affordable senior rental housing development component Project since the early 2000s; and

WHEREAS, CHDC and Eden entered into a Predevelopment Loan Agreement, Promissory Note, and Regulatory Agreement and Declaration of Restrictive Covenants with the former Agency (the “Loan Documents”), all dated September 22, 2005, pursuant to which the former Agency loaned CHDC and Eden \$849,000 for predevelopment activities related to the affordable senior rental housing development component of the Project; and

WHEREAS, the Loan Documents were amended on March 18, 2008 to increase the predevelopment loan amount by \$91,000 for a total predevelopment loan amount of \$940,000; and

WHEREAS, CHDC and Eden are cosigners along with the former Agency of a Voluntary Cleanup Agreement with the Department of Toxic Substance Control (“DTSC”) dated October 31, 2005 (the “VCA”) for the completion of cleanup and remediation activities at the Property; and

WHEREAS, the VCA was amended on September 1, 2009 to add then purchased adjacent property under the VCA; and

WHEREAS, after a competitive procurement process, CHDC and Eden entered into an Exclusive Right to Negotiate (“ERN”) agreement with the former Agency dated June 28, 2006 for the development of up to 80 units of rental housing affordable to seniors (“Prior ERN”); and

WHEREAS, the Prior ERN was amended on January 24, 2007, March 24, 2007, March 24, 2008, March 24, 2009, March 24, 2010 and January 4, 2011 to extend the exclusive negotiation period; and

WHEREAS, the Prior ERN has expired and the Successor Agency now wishes to enter into a new ERN with CHDC and Eden for the affordable senior rental housing development component of the Project; and

WHEREAS, on December 20, 2013, the Successor Agency issued a request for proposals (the “RFP”) seeking a developer willing to undertake the development of the for-sale market rate housing development component of the Project; and

WHEREAS, on March 13, 2014, two developers submitted timely responses to the RFP.

WHEREAS, on April 7, 2014, interviews were held with the two developers that submitted responses to the RFP and a staff panel selected Miraflores Community Devco., LLC (“MCD”) to enter into an ERN with the Successor Agency for the for-sale market rate housing development component of the Project; and

WHEREAS, ERNs with CHDC and Eden and MCD, respectively, will provide a mechanism for the parties to set forth terms for the negotiation of land development agreements for the purchase and development of their respective portions of the Property in furtherance of the Project; and

WHEREAS, the obligation to construct affordable and market rate housing on the Project site is included in the approved Recognized Obligation Payment Schedules (“ROPS”) 13-14 B and 14 -15A, and is in compliance with Health and Safety Code Section 34177 (l).

WHEREAS, by the agenda report accompanying this Resolution (“Agenda Report”) the Oversight Board has been provided with additional information upon which the findings and actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the members of the Oversight Board to the Successor Agency Board find the above recitals are true and correct and have served, together with the Agenda Report, as the basis for the findings and actions set forth in this Resolution.

BE IT FURTHER RESOLVED, that the members of the Oversight Board to the Successor Agency Board authorize the Executive Director or his designee to execute an Exclusive Right to Negotiate agreement between the Successor Agency and Community Housing Development Corporation of North Richmond and Eden Housing, Inc. for the development of up to 80 units of affordable rental housing for seniors at the Property.

BE IT FURTHER RESOLVED, that the members of the Oversight Board to the Successor Agency Board authorize the Executive Director or his designee to execute an Exclusive Right to Negotiate agreement between the Successor Agency and Miraflores Community Devco.,LLC for the development of up to 150 single family for-sale market rate housing units at the Property.

BE IT FURTHER RESOLVED, that pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance and, therefore this Resolution shall not be effective for three (3) business days, pending a request for review by the Department of Finance.

I certify that the foregoing Resolution was passed and adopted by the Oversight Board at a regular meeting held on June 19, 2014 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Chairperson

ATTEST:

Oversight Board Secretary

**EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT REGARDING
MIRAFLORES HOUSING DEVELOPMENT COMMUNITY**

This EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (the "Agreement") is entered into as of June ____, 2014 by and between the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1x 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature enacted on June 27, 2012 (the "Dissolution Acts") (the "Successor Agency") and the CITY OF RICHMOND, a municipal corporation and charter city (the "City") on the one hand and Miraflores Community Devco., LLC, a limited liability company (the "Developer") on the other hand, under the terms and provisions set forth below.

RECITALS

A. The Successor Agency is the owner of approximately 14 acres of real property located within the City of Richmond, Contra Costa County, California, which real property is commonly known as the Miraflores Housing Development property and is more fully described in Exhibit "A", attached hereto (the "Property").

B. In response to the Successor Agency's December 20, 2013 request for proposals (the "RFP"), Developer submitted on March 13, 2014 its proposal to acquire and develop a portion of the Property (the "Proposal"). Pursuant to the Proposal, Developer proposes to acquire an approximately 7 acre portion of the Property (the "Market Rate Residential Property") for the development of a market rate residential project and Developer will further assist in the development of recreational facilities including an approximately 5.0 acre greenbelt on the portion of the Property to be retained under City-ownership ("Greenbelt Property").

C. On _____, 2014, Developer was selected through a competitive process by the Successor Agency and City to enter into exclusive negotiations consistent with the terms of this Agreement regarding the terms and conditions under which the Developer will purchase and develop the Market Rate Residential Property and develop the Greenbelt Property.

D. As consideration for the right to negotiate exclusively with the City and Successor Agency regarding the acquisition and development of the Market Rate Residential Property, Developer shall make a TWO HUNDRED THOUSAND DOLLAR (\$200,000.00) non-refundable deposit (the "Non-refundable Deposit") to the City upon approval of this Agreement.

E. The exclusive negotiations shall occur during a ninety (90) day period from the date of this Agreement (the "Exclusive Period"), during which time the parties will negotiate in good faith regarding a term sheet identifying key business terms for the acquisition and development of the Market Rate Residential Property and the

development of the Greenbelt Property (the “Term Sheet”). During the Exclusive Period, Developer must also demonstrate the financial feasibility of its Proposal, complete a draft master plan, including conceptual renderings and prepare a development phasing plan.

F. The Term Sheet shall set forth the basic terms under which Developer and the Successor Agency and City will negotiate for a Land Development Agreement (the “LDA”). Both parties acknowledge that the LDA will necessarily address other key terms which are not set forth in this the Term Sheet.

G. The parties acknowledge that final disposition of the acquisition and development of the Market Rate Residential Property is subject to approval of the Long Range Property Management Plan by the Oversight Board to the Successor Agency and the Department of Finance as provided by and pursuant to the Dissolution Acts.

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the parties agree as follows:

AGREEMENT

1. **Exclusive Period.** The Successor Agency and City and the Developer agree to negotiate exclusively with each other for a period of time not to exceed ninety (90) days commencing with the date this Agreement. During the Exclusive Period, each party will cooperate and in good faith endeavor to negotiate regarding the Term Sheet. The Successor Agency and City agree that during the Exclusive Period, with the exception of ongoing discussions and negotiations with various state agencies, it will not offer, or negotiate with any other person or entity relating to the use, leasing, acquisition or development of the Property without the prior written consent of Developer. Upon execution of the Term Sheet, the parties shall have an additional period of one hundred and eighty (180) days to complete negotiations for the LDA, which will set forth all the duties and obligations for the development of the Property in accordance with the Term Sheet. Both the Term Sheet and the LDA are subject to the approval of the City Council of the City of Richmond and the Successor Agency Board.

2. **Investigation.** Developer agrees that during the Exclusive Period, the Developer will conduct its initial due diligence regarding the Property. This review shall include, but shall not be limited to, review of the studies, surveys and other environmental or land use information available regarding the Property. During the Exclusive Period, the Developer will conduct, at its sole cost and expense, whatever further investigations that it deems necessary regarding the Property. Developer agrees that any damage made or done as a result of any inspection upon the Property by Developer will be repaired and the Property will be returned to its pre-inspection conditions. The Developer agrees to execute a right of entry and release of liability in the form to be provided by the Successor Agency and City.

3. **Deposit.** The parties acknowledge that Developer delivered the Non-refundable Deposit to the City on or about _____, 2014. The Non-refundable

Deposit is a significant part of the consideration for the Successor Agency and City to enter into this Agreement and it shall become non-refundable immediately upon the execution this Agreement by the Successor and City. The Non-refundable Deposit, including interest earned, shall be applicable to the purchase price to be paid by Developer for the Market Rate Residential Property in the event Developer ultimately purchases the Market Rate Residential Property pursuant to the LDA.

4. **Terms.** Successor Agency and City and Developer shall in good faith endeavor to negotiate the following terms which shall be memorialized in the Term Sheet:

a. **Purchase Price.**

b. **Environmental Remediation.**

c. **Historical Resources.** [Note: Development of the Greenbelt Property shall include preservation of certain greenhouses and homes historically used at the site.]

d. **As-Is Where-Is.** [Note: The Property will be sold “As-Is Where-Is” without any representation or warranties by the Successor Agency or City of the physical condition of the Property or improvements thereon.]

e. **Entitlements.** [Note: The City agrees to process all required entitlements, permits and approvals in a good faith, diligent manner.]

f. **Closing.** [Note: The close of escrow is contingent upon execution of the LDA containing all terms and conditions of the land sale transaction and development of the Property. Final disposition of the acquisition and development is further contingent on approval of the Long Range Property Management Plan by the Oversight Board to the Successor Agency and the Department of Finance as provided by and pursuant to the Dissolution Acts.]

The Term Sheet shall be accompanied with 1) documentation demonstrating the financial feasibility of the Developer’s Proposal, including documentation establishing its capacity to finance the Proposal, including a proforma 2) a draft master plan, including conceptual renderings and 3) a development phasing plan.

5. **Finality of the City’s Determination.** The Successor Agency and City’s determination on whether to enter the LDA with the Developer shall be final and conclusive.

6. **Reports and Plans.** If, despite good faith efforts by the parties, negotiations fail to result in a signed and approved LDA, the Developer agrees to submit to the Successor Agency and City all findings and determinations relating to the proposed project and copies of all plans, studies and reports prepared by the Developer.

7. **Assignment.** The Developer's rights under this Agreement are not assignable or transferable without the written consent of Successor Agency and City at their sole and absolute discretion.

8. **Compliance with Regulations.** The Developer understands, acknowledges and agrees that it must comply with requirements and provisions of the Successor Agency and City (including, without limitation, various approvals required by the Oversight Board to the Successor Agency, City of Richmond Planning Commission, Design Review Board, Department of Public Works and other commissions/officers/agencies of the City and Successor Agency), as well as approvals by various state and federal regulatory agencies, including the California Department of Finance.

9. **Disclosure of Information.** The Developer understands, acknowledges and confirms that full disclosure has been made with Developer's response to the RFP to the Successor Agency and City regarding all members and officers of the Developer and all other pertinent information concerning the Developer.

10. **Disclosure of Financing.** The Developer understands, acknowledges and agrees that full disclosure will be made to the Successor Agency and City regarding methods of financing to be used in developing the Property.

11. **Approvals.** The Developer understands, acknowledges and agrees that if negotiations culminate in a LDA that the staff recommends to the Successor Agency Board and City Council, such an agreement becomes final only after and if the LDA has been considered and approved the Successor Agency Board and the City Council. The Developer further understands, acknowledges and agrees that final disposition of the acquisition and development is contingent on approval of the Long Range Property Management Plan by the Oversight Board to the Successor Agency and the Department of Finance as provided by and pursuant to the Dissolution Acts.

12. **Finder's Fees.** No finder's fee or real estate commission will be paid in this transaction or this Agreement.

13. **City Ordinances.** The Developer agrees to comply with the City of Richmond Business Equal Opportunity Ordinance (RMC Chapter 2.50), Living Wage Requirement Ordinance (RMC Chapter 2.60), and the Local Employment Program (RMC Chapter 2.56).

14. **Laws of the State of California.** The laws of the State of California shall govern the interpretation of this Agreement. Any litigation arising under this Agreement shall be prosecuted in the Superior Court of California, County of Contra Costa, and all Parties waive their respective rights to change venue pursuant to Section 394 of the Code of Civil Procedure.

IN WITNESS WHEREOF, the parties have entered into this Exclusive Right to Negotiate Agreement as of the day and year first above written.

Approved as to form:

THE CITY OF RICHMOND,
A Municipal corporation

City Attorney

By: _____
Mayor

Attest:

City Clerk

Approved as to form:

SUCCESSOR AGENCY TO THE RICHMOND
COMMUNITY REDEVELOPMENT AGENCY,
an entity created and organized under the
Dissolution Acts

Successor Agency Attorney

By: _____
Chair

Attest:

Successor Agency Clerk

DEVELOPER

By: _____

Its: _____

EXHIBIT A
PROPERTY

DRAFT

**EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT REGARDING
MIRAFLORES HOUSING DEVELOPMENT COMMUNITY**

This EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (the “Agreement”) is entered into as of June ____, 2014 by and between the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature enacted on June 27, 2012 (the “Dissolution Acts”) (the “Successor Agency”) and the CITY OF RICHMOND, a municipal corporation and charter city (the “City”) on the one hand and COMMUNITY HOUSING DEVELOPMENT CORPORATION, a California nonprofit corporation (“CHDC”) and EDEN HOUSING, INC. (“Eden”) (CHDC and Eden are collectively referred to as the “Developer”) on the other hand, under the terms and provisions set forth below.

RECITALS

A. The Successor Agency is the owner of approximately 14 acres of real property located within the City of Richmond, Contra Costa County, California, which real property is commonly known as the Miraflores Housing Development property and is more fully described in Exhibit “A”, attached hereto (the “Property”).

B. CHDC and Eden entered into a Predevelopment Loan Agreement, Promissory Note, and Regulatory Agreement and Declaration of Restrictive Covenants with the former Richmond Community Redevelopment Agency (“former Agency”), all dated September 22, 2005 (the “Loan Documents”), pursuant to which the former Agency loaned CHDC and Eden \$849,000 for predevelopment activities related to the development of affordable senior rental housing at the Property.

C. The Loan Documents were amended on March 18, 2008 to increase the predevelopment loan amount by \$91,000 for a total predevelopment loan of \$940,000.

D. CHDC and Eden are cosigners along with the former Agency of that certain Voluntary Cleanup Agreement with the Department of Toxic Substance Control (“DTSC”) dated October 31, 2005 (the “VCA”) for the completion of cleanup and remediation activities at the Property. The VCA was amended on September 1, 2009 to add then purchased adjacent property under the VCA.

E. CHDC and Eden entered into an Exclusive Right to Negotiate (“ERN”) agreement with the former Agency dated June 28, 2006 for the development of up to 80 units of rental housing affordable to seniors (the “Prior ERN”) at the Property. The Prior ERN was amended on January 24, 2007, March 24, 2007, March 24, 2008, March 24, 2009, March 24, 2010 and January 4, 2011 to extend the exclusive negotiation period.

F. The Prior ERN has expired and the Successor Agency now wishes to enter into this Agreement with CHDC and Eden for the acquisition of an approximately 1.5 acre portion of the Property (the “Senior Residential Property”) for the development of up to 80 units of rental housing affordable to seniors.

G. The exclusive negotiations shall occur during a ninety (90) day period from the date of this Agreement (the “Exclusive Period”), during which time the parties will negotiate in good faith regarding a term sheet identifying key business terms for the acquisition and development of the Senior Residential Property (the “Term Sheet”). During the Exclusive Period, Developer must also demonstrate the financial feasibility of its proposal to develop affordable senior rental housing, complete a draft master plan, including conceptual renderings and prepare a development phasing plan.

H. The Term Sheet shall set forth the basic terms under which Developer and the Successor Agency and City will negotiate for a Land Development Agreement (the “LDA”). Both parties acknowledge that the LDA will necessarily address other key terms which are not set forth in this the Term Sheet.

I. The parties acknowledge that final disposition of the acquisition and development of the Senior Residential Property is subject to approval of the Long Range Property Management Plan by the Oversight Board to the Successor Agency and the Department of Finance as provided by and pursuant to the Dissolution Acts.

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the parties agree as follows:

AGREEMENT

1. **Exclusive Period.** The Successor Agency and City and the Developer agree to negotiate exclusively with each other for a period of time not to exceed ninety (90) days commencing with the date this Agreement. During the Exclusive Period, each party will cooperate and in good faith endeavor to negotiate regarding the Term Sheet. The Successor Agency and City agree that during the Exclusive Period, with the exception of ongoing discussions and negotiations with various state agencies, it will not offer, or negotiate with any other person or entity relating to the use, leasing, acquisition or development of the Property without the prior written consent of Developer. Upon execution of the Term Sheet, the parties shall have an additional period of one hundred and eighty (180) days to complete negotiations for the LDA, which will set forth all the duties and obligations for the development of the Property in accordance with the Term Sheet. Both the Term Sheet and the LDA are subject to the approval of the City Council of the City of Richmond and the Successor Agency Board.

2. **Investigation.** Developer agrees that during the Exclusive Period, the Developer will conduct its initial due diligence regarding the Property. This review shall include, but shall not be limited to, review of the studies, surveys and other environmental or land use information available regarding the Property. During the

Exclusive Period, the Developer will conduct, at its sole cost and expense, whatever further investigations that it deems necessary regarding the Property. Developer agrees that any damage made or done as a result of any inspection upon the Property by Developer will be repaired and the Property will be returned to its pre-inspection conditions. The Developer agrees to execute a right of entry and release of liability in the form to be provided by the Successor Agency and City.

3. **Terms.** Successor Agency and City and Developer shall in good faith endeavor to negotiate the following terms which shall be memorialized in the Term Sheet:

a. **Purchase Price.**

b. **Environmental Remediation.**

c. **Historical Resources.**

d. **As-Is Where-Is.** [Note: The Property will be sold “As-Is Where-Is” without any representation or warranties by the Successor Agency or City of the physical condition of the Property or improvements thereon.]

e. **Entitlements.** [Note: The City agrees to process all required entitlements, permits and approvals in a good faith, diligent manner.]

f. **Closing.** [Note: The close of escrow is contingent upon execution of the LDA containing all terms and conditions of the land sale transaction and development of the Property. Final disposition of the acquisition and development is further contingent on approval of the Long Range Property Management Plan by the Oversight Board to the Successor Agency and the Department of Finance as provided by and pursuant to the Dissolution Acts.]

The Term Sheet shall be accompanied with 1) documentation demonstrating the financial feasibility of the Developer’s proposal, including documentation establishing its capacity to finance the development of affordable senior rental housing, including a proforma 2) a draft master plan, including conceptual renderings and 3) a development phasing plan.

4. **Finality of the City’s Determination.** The Successor Agency and City’s determination on whether to enter the LDA with the Developer shall be final and conclusive.

5. **Reports and Plans.** If, despite good faith efforts by the parties, negotiations fail to result in a signed and approved LDA, the Developer agrees to submit to the Successor Agency and City all findings and determinations relating to the proposed project and copies of all plans, studies and reports prepared by the Developer.

6. **Assignment.** The Developer's rights under this Agreement are not assignable or transferable without the written consent of Successor Agency and City at their sole and absolute discretion.

7. **Compliance with Regulations.** The Developer understands, acknowledges and agrees that it must comply with requirements and provisions of the Successor Agency and City (including, without limitation, various approvals required by the Oversight Board to the Successor Agency, City of Richmond Planning Commission, Design Review Board, Department of Public Works and other commissions/officers/agencies of the City and Successor Agency), as well as approvals by various state and federal regulatory agencies, including the California Department of Finance.

8. **Disclosure of Information.** The Developer understands, acknowledges and confirms that full disclosure has been made with Developer's response to the RFP to the Successor Agency and City regarding all members and officers of the Developer and all other pertinent information concerning the Developer.

9. **Disclosure of Financing.** The Developer understands, acknowledges and agrees that full disclosure will be made to the Successor Agency and City regarding methods of financing to be used in developing the Property.

10. **Approvals.** The Developer understands, acknowledges and agrees that if negotiations culminate in a LDA that the staff recommends to the Successor Agency Board and City Council, such an agreement becomes final only after and if the LDA has been considered and approved the Successor Agency Board and the City Council. The Developer further understands, acknowledges and agrees that final disposition of the acquisition and development is contingent on approval of the Long Range Property Management Plan by the Oversight Board to the Successor Agency and the Department of Finance as provided by and pursuant to the Dissolution Acts.

11. **Finder's Fees.** No finder's fee or real estate commission will be paid in this transaction or this Agreement.

12. **City Ordinances.** The Developer agrees to comply with the City of Richmond Business Equal Opportunity Ordinance (RMC Chapter 2.50), Living Wage Requirement Ordinance (RMC Chapter 2.60), and the Local Employment Program (RMC Chapter 2.56).

13. **Laws of the State of California.** The laws of the State of California shall govern the interpretation of this Agreement. Any litigation arising under this Agreement shall be prosecuted in the Superior Court of California, County of Contra Costa, and all Parties waive their respective rights to change venue pursuant to Section 394 of the Code of Civil Procedure.

IN WITNESS WHEREOF, the parties have entered into this Exclusive Right to Negotiate Agreement as of the day and year first above written.

Approved as to form:

THE CITY OF RICHMOND,
A Municipal corporation

City Attorney

By: _____
Mayor

Attest:

City Clerk

Approved as to form:

SUCCESSOR AGENCY TO THE RICHMOND
COMMUNITY REDEVELOPMENT AGENCY,
an entity created and organized under the
Dissolution Acts

Successor Agency Attorney

By: _____
Chair

Attest:

Successor Agency Clerk

DEVELOPER

COMMUNITY HOUSING DEVELOPMENT
CORPORATION, a California nonprofit
corporation

By: _____

Its: _____

EDEN HOUSING, INC.

By: _____

Its: _____

EXHIBIT A
PROPERTY

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