

Oversight Board for Successor Agency
to the City of Santa Clara
Redevelopment Agency

Date: January 4, 2013

To: Oversight Board for Information

From: Acting City Manager/Executive Officer to Successor Agency

Subject: Santa Clara Successor Agency Due Diligence Review for Low and Moderate Income Housing Funds Pursuant to Health and Safety Code Section 34179.5

BACKGROUND AND ANALYSIS

On June 28, 2011, Assembly Bill No. X1 26 ("Dissolution Act") was signed into law by the Governor of California which called for the dissolution of redevelopment agencies throughout the State and established the procedures by which this was to be accomplished. On December 29, 2011, the California State Supreme Court largely upheld the Dissolution Act as constitutional and reformed and extended certain dates, by which certain dissolution actions were to occur under the Dissolution Act, by an additional four months. As a result of the Supreme Court's decision, on February 1, 2012, all California redevelopment agencies were dissolved, including the Santa Clara Redevelopment Agency, and successor agencies to the former redevelopment agencies were established and were tasked with paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and winding down the affairs of the former redevelopment agencies.

On June 27, 2012, the State Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012) as a trailer bill for the Fiscal Year 2012-2013 State budget package. Although the primary purpose of AB 1484 is to make technical and substantive amendments to the Dissolution Act based on issues that have arisen in the implementation of the Dissolution Act, AB 1484 also imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind-down process of former redevelopment agencies (including the preparation of a due diligence review) (reference hereinafter to the Dissolution Act means Assembly Bill No. X1 26 as amended by AB 1484).

Pursuant to the Dissolution Act at California Health and Safety Code ("Health and Safety Code") Section 34179.5(a), in furtherance of Health and Safety Code Section 34177(d), the Santa Clara Redevelopment Agency Successor Agency ("Successor Agency") shall employ a licensed accountant, approved by the Santa Clara County Auditor-Controller ("County") and with experience and expertise in local government accounting, to conduct a due diligence review ("Due Diligence Review") to determine the unobligated balances available for transfer to taxing entities. As an alternative, an audit provided by the County that provides the information required by Section 34179.5 may be used to comply with such Section with the concurrence of the Oversight Board ("Oversight Board") of the Successor Agency.

Pursuant to the Dissolution Act at Health and Safety Code Section 34179.6(a), by October 1, 2012, the Successor Agency shall provide to the Oversight Board, the Santa Clara County Auditor-Controller, the State Controller, and the Department of Finance the results of the Due Diligence Review conducted pursuant to Section 34179.5 for the Low and Moderate Income Housing Fund ("LMIHF") and specifically the amount of cash and cash equivalents determined to be available for

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allocation to taxing entities (the "Housing Due Diligence Review"). By December 15, 2012, the Successor Agency shall provide to the Oversight Board, the County, the State Controller, and the Department of Finance the results of the Due Diligence Review conducted pursuant to Section 34179.5 for all of the other fund and account balances and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities.

Pursuant to the Dissolution Act at Health and Safety Code Section 34179.6(b), upon receipt of the Housing Due Diligence Review, the Oversight Board shall convene a public comment session to take place at least five business days before the Oversight Board holds the approval vote specified in Section 34179.6(c). The Oversight Board also shall consider any opinions offered by the County on the Housing Due Diligence Review results submitted by the Successor Agency.

Pursuant to the Dissolution Act at Health and Safety Code Section 34179.6(c), by October 15, 2012, for the LMIHF and by January 15, 2013, for all other funds and accounts, the Oversight Board shall review, approve, and transmit to the Department of Finance and the County the determination of the amount of cash and cash equivalents that are available for disbursement to taxing entities as determined according to the method provided in Section 34179.5. The Oversight Board may adjust any amount provided in the review to reflect additional information and analysis. The review and approval shall occur in public sessions.

For the reasons discussed below, on January 4, 2013 (after the October 1, 2012 statutory deadline) the Successor Agency electronically submitted to the Oversight Board, the County, the State Controller, and the Department of Finance the results of the Housing Due Diligence Review conducted pursuant to Health and Safety Code Section 34179.5 and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities. (See Attachment Nos. B, C and C1.)

In accordance with Health and Safety Code Section 34179.6(b), this public meeting of the Oversight Board shall be deemed to constitute the public comment session on the Housing Due Diligence Review and the results of the Housing Due Diligence Review conducted pursuant to Section 34179.5 and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities.

In accordance with Health and Safety Code Section 34179.6(b), this meeting of the Oversight Board providing the statutorily required public comment session is at least five business days before the Oversight Board is scheduled to hold a meeting on the approval vote specified in Section 34179.6(c) in connection with the results of the Housing Due Diligence Review and the determination of the amount of cash and cash equivalents that are available for disbursement to taxing entities as determined according to the method provided in Section 34179.5.

At this Oversight Board meeting providing the public comment session, in addition to the receipt of any public comments, the Oversight Board may consider any opinions offered by the County on the Housing Due Diligence Review. No specific action of the Oversight Board is statutorily required at this particular meeting; however, and as further discussed below, the Successor Agency takes exception to the amounts to be remitted to the taxing entities as indicated on Attachment B on Page

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8 of the Housing Due Diligence Review prepared by the accountants hired by the County and requests the Oversight Board revise the amounts in accordance with Health and Safety Code Section 34179.6(c).

DISCUSSION:

As required by Health and Safety Code Section 34179.5(a), the County retained the services of a licensed accountant, Macias Gini & O'Connell LLP ("MGO"), to conduct the Housing Due Diligence Review to determine the unobligated balances available for transfer to taxing entities in furtherance of Health and Safety Code Section 34177(d).

Unfortunately, the Successor Agency and MGO were unable to complete the Housing Due Diligence Review by the October 2012 deadline in part because of the County's insistence upon, among other things, the preparation of its own so-called Draft Dissolution Audit of the RDA-Phase 2 Report and finalized as of December 17, 2012 ("AUP Report"). It should be noted that the Department of Finance has been clear that there are no penalties for the late submission of the Due Diligence Reviews.

The Successor Agency and the County have a significant disagreement regarding the amount of low and moderate income housing cash assets available for distribution to the taxing entities. The Successor Agency has determined that there is \$15,594,575 in unencumbered cash assets available for distribution to the taxing entities. The Housing Due Diligence Report prepared by MGO determines that there is \$63,179,968 of cash assets available for distribution to the taxing entities with notes that certain funds are encumbered and indeed spent. The heart of the disagreements between the two numbers rests with the actions that the Santa Clara Redevelopment Agency ("RDA") took prior to dissolution as a result of differing interpretations of what the Dissolution Act allows and does not allow - differing interpretations to which the County readily concedes in its AUP Report at Narrative Section 2. The RDA actions taken and reasons why the Successor Agency believes such actions are legally valid that determine the lower figure to be remitted to the County for distribution to the taxing entities are outlined below.

On February 8, 2011, the City of Santa Clara ("City") and the RDA entered into a Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects ("Cooperation Agreement") wherein the City agreed to complete certain RDA-related projects in exchange for the commitment of "net available housing funds" (as defined therein) allocated to the RDA for affordable housing.

On February 22, 2011, the City established the Santa Clara Housing Authority ("Housing Authority").

On March 8, 2011, the City and Authority entered into an Assignment and Assumption Agreement (Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects) ("Assignment and Assumption Agreement"), recorded on June 23, 2011 as Document No. 21216118 in the Santa Clara County Recorder's Office, wherein the City assigned its rights, interests and obligations under the Cooperation Agreement to the Authority with the consent of the RDA pursuant to which all RDA housing funds

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currently held or to be deposited in the RDA's accounts were transferred to the Authority in order to carry out the obligations under the Cooperation Agreement.

On March 9, 2011, the RDA and Authority entered into an Agreement of Assignment (Promissory Notes and Other Evidences of Indebtedness) ("Assignment Agreement" and together with the Cooperation Agreement and the Assignment and Assumption Agreement are collectively referred to herein as the "Cooperation/Assignment Agreements") wherein the RDA assigned its rights, interests and obligations relating to all Assets (as defined therein and together with the "net available housing funds" referred to in the Cooperation Agreement collectively referred to herein as the "RDA Funds") to facilitate the Authority's performance of its obligations under the Cooperation Agreement. As a result of the Cooperation/Assignment Agreements the RDA transferred to the Housing Authority assets with a total value of \$136,899,997. These assets consisted of both cash and non-cash assets. The Successor Agency and the County agree that the non-cash assets transferred were valued at \$77,117,126. These non-cash assets were listed on the Housing Asset Transfer List submitted to the State of California Department of Finance and for the most part were approved by the DOF as housing assets. The cash assets transferred and the subsequent expenditure of these cash assets for obligations that were assigned to the Housing Authority from the RDA is where the Successor Agency and the County disagree.

The County has taken the position that the Housing Authority was prohibited from taking any actions with regards to the expenditure of the cash assets once the assets were transferred to the Housing Authority. The County reads this prohibition in ABx1 26 which prohibited redevelopment agencies from taking certain actions after the effective date of ABx1 26 but did not and does not contain any prohibition on activities of other public entities. The Housing Authority continued to proceed with housing projects and programs that the RDA had proposed long before dissolution in accordance with the terms of the Cooperation/Assignment Agreements. All of the expenditures by the Housing Authority were in compliance with the California Redevelopment Law provisions regarding the use of Low and Moderate Income Housing Funds and all of the expenditures furthered the statewide goals of increasing and improving the supply of affordable housing. The Successor Agency believes that these actions were valid actions and must be recognized as part of the Housing Due Diligence Review for the following, among other, reasons.

First, the applicable statute of limitations for potential legal challenges attacking the validity of the Cooperation/Assignment Agreements has passed, and had passed well before the effective date of ABx1 26. As such, each of these Cooperation/Assignment Agreements had been already validated by the passage of time prior to ABx1 26, consistent with the CA Supreme Court case *City of Ontario v. Superior Court* (1970) 2 Cal. 3d 335, 341-342.

The Cooperation/Assignment Agreements are contracts that were and are subject to Code of Civil Procedure Section 860 et seq., which requires that any action to determine the validity of the matter to be brought within 60 days. Code of Civil Procedure Sections 860 and 863 are made applicable to these kinds of redevelopment financial agreements by Government Code Section 53511. This interpretation is consistent with the CA Court of Appeal case *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal. App. 3rd 631, 645-646, which references the statute of limitations in Code of Civil Procedure Sections 860 and 863 as being made applicable by Government Code Section

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53511. That time period has passed, and in all cases had passed prior to the adoption of ABx1 26. Upon the elapse of the statutory time to challenge the contract without an adverse action having been brought, the legality of the matter "was conclusively determined; the effect was similar to that of a final adjudication of a court of record", and such adjudication is forever binding and conclusive upon all persons, including the State of California and the County of Santa Clara. *Redevelopment Agency of the City of San Francisco v. Del-Camp Investments, Inc.* (1974) 38 Cal. App. 3rd 836, 841. This is a complete defense against any legal action that might be brought to challenge the validity of the Cooperation/Assignment Agreements and is required under applicable law to be recognized by the Department of Finance.

Second, Health and Safety Code Section 34167.5 (the "clawback provision") provides, in part, that the State Controller is to review the activities of redevelopment agencies to determine whether an asset transfer has occurred after January 1, 2011 between a redevelopment agency and its sponsoring city or county. The statute then provides: "If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the State Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011 [presumably now February 1, 2012], to the successor agency..." (Emphasis added.) To date the State Controller has not issued any order with regards to the Cooperation/Assignment Agreements and in many instances the difference between the amounts the Successor Agency has determined are available and those that the County has determined are available are the result of the assets being committed to third parties (as further described below). The very purpose of the language in Health and Safety Code Section 34167.5 is to prevent the unlawful impairment of contracts. The same prohibition on impairment of contracts applies to the Housing Due Diligence Review.

It would be most reasonable to interpret Health and Safety Code Section 34167.5 to mean that property or assets that are contractually committed to a third party at the time that the State Controller orders their return to the successor agency are covered by this exception. This interpretation is based on: (i) the use of the present tense in the pertinent portion of Health and Safety Code Section 34167.5 (e.g., "and the government agency that received the assets is not contractually committed...") (in short "is" means "is", not "was"); (ii) the fact that where the Legislature intended a particular provision of ABx1 26 to be applicable on the effective date of the bill it consistently so provided, and did so in many places in the bill (for example there is a reference to the effective date in this very section of the bill, but not in connection with when a contractual commitment triggers the exemption from clawback, only in connection with when the State Controller is to commence their review of post January 1, 2011 transfers) and (iii) this section involves the forfeiture of title to real estate and other property, and a public agency demanding the forfeiture of property should only be able to do so on the basis of a crystal clear statutory provision.

The County's position rests primarily on their reading of the final sentence of Health and Safety Code Section 34167.5 which 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." However, the County is reading the language out of context. If the legislation was intended to reverse all transfers occurring

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after January 1, 2011, Section 34167.5 would not have required the State Controller to review all asset transfers and only order the return of those assets that were not committed to third parties. The Section though is clear that there are only certain asset transfers that the Controller can reverse because to do otherwise would result in the unlawful impairment of contract. It should be noted that the Successor Agency has been working with the State Controller on these very issues and although the Controller's report has not been issued, based on preliminary discussions with the Controller, the Controller's initial estimate regarding the funds to be returned is more in line with the Successor Agency's determination.

HOUSING AUTHORITY TRANSACTIONS:

With the foregoing in mind, the major transactions that result in the difference between the Housing Due Diligence Review remittance amount of \$63,179,968 and the Successor Agency's determination of the \$15,594,575 in funds available for distribution are described below in the order found on Page 8 of Attachment B:

<i>Reconciliation of amount per Due Diligence Review to the amount per City of Santa Clara:</i>		Notes
Amount to be remitted to county for disbursement to taxing entities as calculated above	\$ 63,179,968	Based on calculation above
Less: Obligations and expenditures subject to inclusion on future ROPS	(17,716,867)	See details at Attachment C1.
Less: Loan from Housing Authority to City / Successor Agency	(5,900,000)	See discussion at Attachment C1 item #18. Amount represents the total loan amount.
Less: Balances denied by the DOF in which the City had requested to initiate the Meet and Confer process to object the DOF's denial.	(17,060,859)	See details at Attachment C1.
Less: Balances denied by the DOF in which the City has not requested to initiate the Meet and Confer process but subsequently decided to object to the DOF's denial.	(6,907,667)	See discussion at Attachment C1 item #9. Amount represents totaled remaining encumbrance plus amount disbursed from June 28, 2011 to June 30, 2012
<i>Amount to be remitted to the County Auditor-Controller for disbursement to taxing entities per City of Santa Clara</i>	\$ 15,594,575	

Obligations and Expenditures Subject to Inclusion on Future ROPS - \$17,716,867

On August 16, 2011, the City approved an Enforceable Obligation Payment Schedule ("EOPS") which included the Cooperation/Assignment Agreements. The County has suggested that, "[i]n theory, with DOF's approval, the City could amend the EOPS and ROPS to permit payments for valid RDA agreements and add these to the ongoing list of enforceable obligations. Alternatively, these items could be added by the City to future ROPS." (See Pages 5-6 of the AUP Report.) In the event the Cooperation/Assignment Agreements are deemed to be valid RDA agreements (for the reasons discussed above), then it follows that the funds used to make payments pursuant thereto should be deemed housing assets and the agreements flowing therefrom must be considered enforceable obligations. Accordingly, the Successor Agency takes the position, as an initial matter then, that funds in the amount of \$17,716,867 for "Obligations and expenditures subject to inclusion

on future ROPS” as detailed in Attachment C1 are not subject to remittance to the County for disbursement to the taxing entities.

In addition to the foregoing, the following items referenced in Attachment C1 also have independent reasons for being considered encumbered funds and therefore are unavailable to be remitted to the County for disbursement to the taxing entities.

ITEM 3 - BAREC \$11,666,211 (Purchase Price)

The RDA and the City have worked on the BAREC Project (defined below) since 2005, negotiating a purchase and sale agreement with the State of California for the purchase of the property that restricts the use of the property to affordable housing and requires the Successor Agency to develop that affordable housing. As the below history illustrates, the funds included in the Housing Due Diligence Review are required to fulfill the obligations under these agreements, including the purchase price paid to the State for the property in the amount of \$11,666,211. An additional amount of \$8,010,911 of funds are required to develop the BAREC Project and are discussed later on in this report.

- On July 5, 2005, the RDA committed to purchase property from the State of California, Department of General Services (“State”) pursuant to a Purchase and Sale Agreement (“PSA”) for development of a 165 unit affordable housing project for seniors (the “BAREC Project”). Under the PSA at section 6.4, entitled Close of Sale, the close of escrow shall occur within 10 days after the close of the sale of other surplus property owned by the State to a private third party developer (“SummerHill”) for market rate housing (the “SummerHill Sale”).
- On June 19, 2007, the RDA, City, State and SummerHill entered into a Development Agreement, recorded as Document No. 19519315 in the Office of the Santa Clara County Recorder.
- On December 13, 2011, the State and the Housing Authority entered into a First Amendment to Purchase and Sale Agreement (“First Amendment to PSA”) wherein State expressly recognized the validity of the Cooperation/Assignment Agreements and the eligibility of the assignments pursuant thereto.
- On or about December 22, 2011, the SummerHill Sale occurred, prompting the close of escrow of the property pursuant to the PSA.

On or about January 5, 2012, escrow closed for the sale of the property from the State to the Housing Authority pursuant to a State of California Grant Deed (Senior Housing Site) (“BAREC Grant Deed”) recorded January 5, 2012 as Document No. 21485774 in the Official Records of Santa Clara County. The Housing Authority purchased the property for \$11,666,211.

The PSA was entered into on July 5, 2005. Thereafter, the RDA assigned its rights under the PSA to the Housing Authority pursuant to the Cooperation/Assignment Agreements in March 2011.

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This assignment was expressly consented to by the State pursuant to paragraph 6 of the First Amendment to PSA which provides, in pertinent part, that “the State consents to the Assignment (as defined therein), as described above in Recital B, to the Authority on the condition that the [RDA] remains fully obligated under the terms of the Purchase Agreement...”

Recital B of the First Amendment to PSA provides as follows:

“Pursuant to that certain Assignment and Assumption Agreement dated March 8, 2011 by and between the City of Santa Clara, a public body, corporate and politic (“City”) and the Authority (the “Assignment Agreement”) and that certain Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects dated February 8, 2011 by and between the City and the Agency (the “Cooperation Agreement” and with the Assignment Agreement collectively referred to herein as the “Assignment”), the Agency’s rights, interests and obligations under the Purchase Agreement were assigned to the Authority by the City with the consent of the Agency.” However, even if the assignment is unauthorized pursuant to Health and Safety Code Section 34163(c), the RDA would still have been obligated to purchase the property under the PSA which was entered into long before the dissolution process commenced. The amendment to the Purchase and Sale Agreement did not change the essential obligation of the RDA to purchase the property but rather clarified certain terms and conditions.

Under the PSA at section 6.4, entitled Close of Sale, the RDA was obligated to close escrow on the sale of the property within 10 days after the close of the SummerHill Sale. The SummerHill Sale closed on December 22, 2011. Therefore the RDA was obligated to purchase the property within 10 days thereafter. Because escrow for the property closed on January 5, 2012 pursuant to a valid enforceable obligation, it is proper to consider the funds in the amount of \$11,666,211 used to purchase the property as encumbered and unavailable to be remitted to the County for distribution to the taxing entities.

ITEM 6 – 910-9182 CIP BILL WILSON CENTER – The Commons Project - \$1,258,497
Attachment C1 at Item 6 under the heading “Findings” provides in pertinent part:

Pursuant to Affordable Housing Loan Agreement dated April 17, 2007, the Agency agreed to loan up to \$3,500,000 to the third party. Pursuant to First Amendment to the Affordable Housing Loan Agreement dated June 23, 2009, the Agency agreed to loan an additional \$805,956 to the third party. Pursuant to Second Amendment to the Affordable Housing Loan Agreement dated March 30, 2010, the Agency agreed to loan an additional \$461,609 to the third party, which bring the total loan amount to \$4,767,565. Based on the Agency's accounting record, as of March 8, 2011, the total loan disbursement made was \$3,367,349 and remaining undisbursed loan commitment of \$1,400,216 is considered an enforceable obligation. (Emphasis added.)

Based on these findings (i.e., that the Affordable Housing Loan Agreement is an enforceable obligation), it is unclear why the Housing Due Diligence Report fails to characterize these funds as

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encumbered other than, simply, because the Department of Finance initially rejected the item on the Housing Asset Transfer List to which there is a pending meet and confer. The Successor Agency anticipates that once the facts are demonstrated to the Department of Finance, the funds will be deemed encumbered by the Department of Finance and therefore unable to be remitted to the County for disbursement to the taxing entities.

ITEM 14 – 915-9306 CIP 1430 El Camino Real Housing Project Presidio - \$4,455,636

The Housing Due Diligence Review reports \$4,455,636 in available funds related to the Presidio El Camino Project (defined below). The Successor Agency believes this \$4,455,636 should not be available for distribution to the taxing entities because the funds have already been disbursed to the private entity developing the project pursuant to an enforceable obligation.

The RDA Board entered into a Predevelopment Loan Agreement with CORE Affordable Housing, LLC, effective April 16, 2010, for initial project funding to undertake feasibility and planning activities for a mixed-use residential development at 1410-1456 El Camino Real (“Presidio El Camino Project”). The investment of funds was to determine feasibility of developing housing for extremely low-, very low- and low-income renters. The redevelopment project would address the City's efforts to implement the El Camino Real Corridor Guidelines.

On February 8, 2011, the RDA Board entered into an Acquisition Loan Agreement with Presidio El Camino, L.P., obligating the RDA to commit \$8,000,000 to the Presidio El Camino Project which included a \$4,240,000 loan for site acquisition and predevelopment costs including relocation costs. The Presidio El Camino Project received City approval of project entitlements on November 9, 2010. The facility will consist of forty studio and one-bedroom apartments and a 3,000 square foot community building. The Presidio El Camino Project was completed and available for occupancy on October 2012.

On August 30, 2011, the Housing Authority entered into an Affordable Housing Agreement to authorize the additional \$3,760,000 for project construction costs, for a total loan principal of \$8,000,000. After consultation with the Department of Finance, the Department of Finance responded in a letter dated August 30, 2012 wherein it did not object to the Presidio El Camino Project and the \$8,000,000 in funds being placed on the Housing Asset List as a Housing Asset.

Loan from Housing Authority to City / Successor Agency - \$5,900,000

The Oversight Board previously approved the Successor Agency entering into a loan agreement with the City of Santa Clara to provide sufficient cash for the Successor Agency to pay the enforceable obligations listed on the Recognized Obligations Payment Schedule for the periods of January through June 30, 2012 and July 1 through December 31, 2012. The cash flow loan was necessary because the County refused to distribute funds from the RPTTF to the Successor Agency to pay obligations on the approved Recognized Obligations Payment Schedules for January 1, 2012 through June 30, 2012 (ROPS I) and July 1, 2012 through December 31, 2012 (ROPS II). In addition to this cash flow loan the Housing Authority returned to the Successor Agency \$3,082,026 representing the deposits to the Low and Moderate Income Housing

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Fund for the 2011-12 fiscal year in order to pay enforceable obligations after the County failed to distribute funds from the RPTTF. The City was able to provide the cash flow loan to the Successor Agency by borrowing the necessary funds from the Housing Authority pursuant to a loan agreement approved by both the City and the Housing Authority. The Housing Due Diligence Review includes these funds as part of the funds to distributed to the taxing entities although to do so would essentially be providing the taxing entities with the same funds twice. The RPTTF funds for ROPS I and II should have been distributed to the Successor Agency for payment of obligations in which event there would have been no need to borrow the funds from the Housing Authority cash assets and the Housing Authority funds would be now available for distribution to the taxing entities.

However, because the County did not distribute RPTTF to the Successor Agency for the ROPS I and II periods, the County is currently holding over \$13 million in RPTTF funds. Some of these funds would have been distributed to the taxing entities except for the litigation that ensued after the Oversight Board voted to terminate the Stadium related agreements with the 49ers. Essentially the Housing Due Diligence Review is counting the funds for distribution to the taxing entities twice. If the County's logic is carried through they would have the City paying the enforceable obligations of the Successor Agency, a result that is clearly not contemplated in the Dissolution Act.

Balances denied by DOF in which the City has requested to initiate the Meet and Confer Process to object the DOF's denial - \$17,060,859

ITEM 2 – 910-9159 CIP First Time Homebuyers Financing Program - \$3,460,196

Pursuant to Health and Safety Code Section 33334.2(g), the RDA and the City have, by Resolutions No. 93-01 and 5785, respectively, established a First-Time Homebuyers Financing Program ("FTHB Program") pursuant to which the RDA shall provide deferred subordinate mortgage loans to eligible low- and moderate-income households to assist such households in the purchase of homes in the City. The RDA and then the Authority allocated funds in years 2011 and 2012 to support the FTHB Program.

The Housing Due Diligence Review shows \$3,460,196 in available funds related to the FTHB Program. The Successor Agency believes this \$3,460,196 should not be available for distribution to the taxing entities because the funds have been allocated pursuant to the Cooperation/Assignment Agreement and which \$1,100,000 of the funds are committed to third parties as participants of the FTHB Program. The funds loaned to the third parties are not subject to the clawback and are no longer assets of the Successor Agency.

ITEM 3 – BAREC Senior Housing - \$8,036,561 (Development Costs)

The Housing Due Diligence Review attributes \$8,036,561 of funds available for distribution to the taxing entities from funds subject to an enforceable obligations related to the BAREC site. The RDA and the City have worked on the BAREC project since 2005, negotiating a purchase and sale agreement with the State of California for the purchase of the property that restricts the use of the property to affordable housing and requires the Successor Agency to develop that affordable housing. As the history above (See ITEM 3) illustrates, the funds included in the Housing Due

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Diligence Review are required to fulfill the obligations under these agreements, including the amount of \$8,036,561 for construction financing.

With respect to the \$8,036,561, the PSA expressly requires the Authority to develop the BAREC Project on the property. Specifically, the PSA at section 2.2, entitled Agency Costs in Addition to Price, provides that the [Authority] “shall be responsible for all costs relating to the transfer of title and/or development of the [property], including, but not limited to all costs associated with the preparation and approval of the plan for the development of the [property], administrative, consultant and third-party costs and legal fees incurred by the [Authority], and the [property’s] proportional share of mitigation measures...including improvements...” (Emphasis added.)

Section 5.3 of the Development Agreement, titled "Funding for Construction of Public Streets and Utilities within Project", specifically states that the infrastructure improvements installed by SummerHill will provide benefit to the Senior Parcel and that the Senior Developer shall reimburse SummerHill for its proportionate share of the actual costs of these improvements.

Section 2.12 of the Development Agreement, entitled Permitted Uses, at subsection (b)(1) provides, “[i]f the [Authority] closes escrow on the [property] in accordance with the [PSA], then the [property] shall be developed for up to 165 units of senior residences which shall be made affordable to low- and very low-income seniors in accordance with the requirements of the City of Santa Clara.” (Emphasis added.) And finally, the recorded Grant Deed at paragraph 3 provides that the [Authority] “shall commence development of the [BAREC Project].” (Emphasis added.) Thus, it was contemplated by the parties that the purchase of the property be made on the condition the Authority develop the BAREC Project. However, development of the BAREC Project cannot be accomplished without the use of the \$8,010,911.

As discussed above at ITEM 3, the PSA was entered into on July 5, 2005. Thereafter, the RDA assigned its rights under the PSA to the Housing Authority pursuant to the Cooperation/Assignment Agreements in March 2011. This assignment was expressly consented to by the State pursuant to paragraph 6 of the First Amendment to PSA which provides, in pertinent part, that “the State consents to the Assignment (as defined therein), as described above in Recital B, to the Authority on the condition that the [RDA] remains fully obligated under the terms of the Purchase Agreement...”

Recital B of the First Amendment to PSA provides as follows:

“Pursuant to that certain Assignment and Assumption Agreement dated March 8, 2011 by and between the City of Santa Clara, a public body, corporate and politic (“City”) and the Authority (the “Assignment Agreement”) and that certain Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects dated February 8, 2011 by and between the City and the Agency (the “Cooperation Agreement” and with the Assignment Agreement collectively referred to herein as the “Assignment”), the Agency’s rights, interests and obligations under the Purchase

Agreement were assigned to the Authority by the City with the consent of the Agency.”

MGO made a point of stating that since no amount was identified in the PSA or First Amendment to PSA, that MGO could not consider the \$8,036,561 as encumbered. However, the First Amendment to PSA references the Cooperation/Assignment Agreements. Exhibit 1 to the Cooperation Agreement, entitled “Schedule of Projects” provides, in pertinent part:

“BAREC Senior Housing, CIP Fund 910/Project 9160 (\$14,535,000) and CIP Fund 915/Project 9301 (\$5,464,000) [See Table 8.12-6-3, Development Projects (as of February 2010), at page 8.12-52 of the 2009 City of Santa Clara Housing Element, approved as part of the certification of the Integrated Final Environmental Impact Report for the City of Santa Clara 2010-2035 General Plan];”

Under general principles of contract law, it is clear the First Amendment to PSA identifies at least \$8,036,561 in funds required for construction of the BAREC Project.

Moreover, the PSA, the Development Agreement and the Grant Deed all reference Government Code section 11011.1 et seq. The State sold the property to the Authority as surplus residential property. Under Health and Safety Code Sections 34167(d)(3) and 34171(d)(1)(C), “preexisting obligations to the state or obligations imposed by state law” are considered “enforceable obligations” under the Dissolution Act. Here, the Authority became obligated under Government Code Sections 54220 – 54227 and 54237(d) to develop the property as affordable housing. Pursuant to the Government Code, the State offered the property to “housing-related private and public entities at a reasonable price, which is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low or moderate income, on the condition that...the purchasing agency shall cause the property to be used for low and moderate income rental or owner-occupied housing.” Government Code section 54237(d) (emphasis added) Under Government Code section 54238, if the RDA and/or Authority did not satisfy that obligation, it would become subject to legal action and could be required to remit funds (i.e., the difference between what was paid for the property and the actual fair market value) to the State. Therefore, the subject \$8,036,561 is properly considered “housing assets” within meaning of Health and Safety Code Section 34176(e)(2) and not subject to remittance to the County for disbursement to the taxing entities because (i) the subject \$8,036,561 in funds encumbered by an enforceable obligation to carry out the Authority’s preexisting statutory obligation under the Government Code as well as (ii) its contractual obligations under the PSA, the Development Agreement and the Grant Deed.

ITEM 4 - 910-9163 CIP SCCo Surplus Site Monroe/San Tomas Expressway Housing Project - \$4,564,102

The RDA acquired property from the County of Santa Clara for the express purpose of developing affordable housing. The Purchase and Sale Agreement as well as the Grant Deed require that the property be used for affordable housing.

Oversight Board for Information

Subject: Santa Clara Successor Agency Due Diligence Review for Low and Moderate Income Housing Funds Pursuant to Health and Safety Code Section 34179.5

January 4, 2013

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On December 14, 2004, the RDA acquired the property located at Monroe St./Tomas Expressway from the County of Santa Clara pursuant to an Agreement for Purchase of Real Property with low- and moderate income housing funds pursuant to Health and Safety Code Section 33334.16 paying the County \$5,400,000 for the property.

On January 21, 2005, the Grant Deed to the property was recorded in the Official Records of Santa Clara County pursuant to Document No. 18198252.

Under Health and Safety Code Sections 34167(d)(3) and 34171(d)(1)(C), "preexisting obligations to the state or obligations imposed by state law" are considered "enforceable obligations" under the Dissolution Act.

Here, the Purchase Agreement obligated the RDA to develop the subject Property as affordable housing pursuant to Health and Safety Code Section 33334.16, which provides in pertinent part:

"For each interest in real property acquired using moneys from the Low and Moderate Income Housing Fund, the agency shall, within five years from the date it first acquires the property interest for the development of affordable housing..., initiate activities consistent with the development of the property for that purpose..."
(Emphasis added.)

Under Health and Safety Code Section 33334.16, if the RDA does not satisfy the obligation to develop affordable housing on the property, it could become subject to legal action. Therefore, the funds currently considered encumbered by the Successor Agency are subject to validly existing "enforceable obligations" within the meaning of Health and Safety Code Sections 34167(d)(3) and 34171(d)(1)(C) and cannot be remitted to the County for disbursement to the taxing entities.

Balances denied by DOF in which the City has not requested to initiate the Meet and Confer process but subsequently decided to object to the DOF's denial. - \$6,907,667

ITEM 9 – 910-9187 CIP ROEM Senior Housing Project 2525 El Camino Real - \$6,907,667

As an initial matter, the City never withdrew its claim that the ROEM Senior Housing Project is not a "housing asset". In a letter dated September 4, 2012 to the Department of Finance, the City invoked the meet and confer process pursuant to Health and Safety Code Section 34176(a)(2). Thereafter, the Department of Finance notified the City via an email dated September 14, 2012 that the City will be granted its request to meet and confer, provided, however, the City complete the DF-MC Form as provided by the Department of Finance and supplemented by an Attachment No. 1 (collectively, the "DF-MC Form"). Thereafter, the City submitted the DF-MC Form and although the City stated its determination to withdraw its objection to, among other things, the ROEM Senior Housing Project, the letter also stated, in pertinent part:

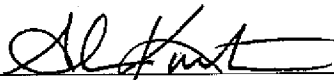
"Notwithstanding the foregoing, the City, in its capacity as the successor housing entity to the former Santa Clara Redevelopment Agency, and the Santa Clara Housing Authority, in its capacity authorized to carry out the activities of the successor housing entity, do not

intend to waive any constitutional, legal or equitable rights and expressly reserves any and all rights, privileges, and defenses available under law and equity with respect to this DF-MC Form and further reserve the right to supplement, clarify, revise, or correct any or all of the responses and statements herein, and to assert additional information, in one or more subsequent supplemental response(s).”

The Housing Due Diligence Review shows \$6,905,029 in available funds related to the ROEM Senior Housing Project. The Successor Agency believes this \$6,905,029 should not be available for distribution to the taxing entities because the funds have been disbursed pursuant to the Cooperation/Assignment Agreement and the funds are committed to third parties pursuant to an Affordable Housing Agreement and Agreement to Lease Real Property dated January 24, 2012. The funds loaned to the developer are not subject to the clawback and are no longer assets of the Successor Agency. The Senior Housing Project will provide forty-eight units of affordable senior housing. It should be noted that the Successor Agency has submitted a meet and confer to the Department of Finance requesting reconsideration of the Department of Finance’s determination that the ROEM Senior Housing Project is not a Housing Asset as set forth on the Housing Asset List. The meet and confer session has been scheduled for February 9, 2013 but may have to be rescheduled.

RECOMMENDATION:

For the foregoing reasons, the Successor Agency requests the Oversight Board adopt the proposed revisions to the Housing Due Diligence Review at the January 18, 2013 Oversight Board meeting. Such adoption would best help facilitate timely resolution of the disputed items by allowing the Department of Finance to review the Housing Due Diligence Review concurrently with the Housing Asset Transfer List for which there is a pending meet and confer with the Successor Agency and make necessary findings, including, as suggested by the County, to place certain of the disputed items on an amended EOPS or ROPS.



Alan Kurotori
Acting City Manager/Executive Officer to Successor Agency

Documents Related to this Report:

- 1) Letter dated December 19, 2012 from County of Santa Clara Finance Agency re: Santa Clara Successor Agency Due Diligence Review for Low and Moderate Income Housing Funds Pursuant to Health and Safety Code Section 34179.5***

County of Santa Clara

Finance Agency

County Government Center
70 West Hedding Street, East Wing, 2nd Floor
San Jose, California 95110-1705
(408) 299-5205 FAX: (408) 287-7629



Wednesday, December 19, 2012

Hon. John Chiang, State Controller
P.O. Box 942850
Sacramento, CA 94250

Ms. Ana Matosantos, Director
Department of Finance
915 L Street
Sacramento, CA 95814

Oversight Board for the Santa Clara Successor Agency
1500 Warburton Ave.
Santa Clara, CA 95050

City of Santa Clara Successor Agency
1500 Warburton Ave.
Santa Clara, CA 95050

Re: Santa Clara Successor Agency Due Diligence Review for Low and Moderate Income Housing Funds Pursuant to Health and Safety Code Section 34179.5

Dear State Controller, Department of Finance, Oversight Board, and Successor Agency:

We present this Due Diligence Report for the Santa Clara Successor Agency ("Agency") in accordance with Health and Safety Code section 34179.5. The agreed upon procedures were completed by Macias Gini & O'Connell, retained under contract by the Santa Clara County Finance Agency. Management of the Successor Agency is responsible for the accounting records.

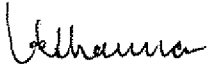
The information presented in this report meets the requirements of Health and Safety Code section 34179.5 for the Low and Moderate Income Housing Funds of the Agency. The County Finance Agency has verified all information with the establishment of assets and liabilities per the agreed upon procedures report issued on December 17, 2012, pursuant to Health and Safety Code section 34182.

As shown on Attachment B, the entire amount to be remitted is due to unallowable asset transfers from the former RDA to the City and its component unit (the City's Housing Authority). The Successor Agency disagrees with the amount to be remitted primarily because

the Housing Authority has expended or committed the vast majority of the transferred cash, as shown in the reconciliation on Attachment B. However, as explained in greater detail in the comprehensive AUP report, these are not allowable offsets, although a portion of the amounts may be recovered on future ROPS.

The amount to be remitted to the Auditor-Controller for distribution to taxing entities pursuant to Health and Safety Code section 34179.6 is shown in Attachment B as **\$63,179,968** as of June 30, 2012, plus interest earned on the entire amount from June 30, 2012, through the date of remittance.

Respectfully submitted,



Vinod K. Sharma, C.P.A.
Director of Finance
County of Santa Clara

Attachments:

- Attachment A – Agreed-Upon Procedures and Findings
- Attachment B – Summary of Balances Available for Allocation
- Attachment C – Asset Transfers
- Attachment C1 – Description of Disbursements

**City of Santa Clara, Successor Agency to the
Redevelopment Agency of the City of Santa Clara**

**Attachment A – Agreed-Upon Procedures and Findings
Low and Moderate Income Housing Funds**

The agreed-upon procedures, as it relates to the Low and Moderate Income Housing Funds of the former Agency and the Successor Agency, and findings are as follows:

1. Obtain from the Successor Agency a listing of all assets that were transferred from the former redevelopment agency to the Successor Agency on or about 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.

Finding: We obtained from the Successor Agency a listing of all assets that were transferred from the former redevelopment agency to the Successor Agency on or about February 1, 2012 and agreed the assets listed to the recorded balances reflected in the accounting records of the Successor Agency. The Successor Agency reported no assets that were transferred from the former redevelopment agency to the Successor Agency on or about February 1, 2012

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.

Finding: The State Controller’s Office has not completed its review of transfers required under both Sections 34167.5 and 34178.8, nor issued its report regarding such review.

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.

Finding: We obtained a listing prepared by the Successor Agency of transfers from the former redevelopment agency to the City of Santa Clara (City) for the period from January 1, 2011 through January 31, 2012 and noted that the former Agency transferred assets in the amount of \$136,899,997, of which \$59,782,871 represented cash assets to the Housing Authority of the City of Santa Clara, a component unit of the City. See Attachment C for the listing of the assets transferred with descriptions of the purpose and in what sense the transfer was required by one of the former Agency’s enforceable obligations or other legal requirements.

- B. Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency to the city, county, or city and county that formed the redevelopment agency for the period from February 1, 2012 through June 30, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency’s enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.

Finding: We obtained a listing prepared by the Successor Agency of transfers from the former redevelopment agency to the City and noted that the Successor Agency did not list any transfers to the City for the period from February 1, 2012 through June 30, 2012.

**City of Santa Clara, Successor Agency to the
Redevelopment Agency of the City of Santa Clara**

**Attachment A – Agreed-Upon Procedures and Findings
Low and Moderate Income Housing Funds**

- 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.

Findings: As described in Attachment C, at June 30, 2012 cash in the amount of \$63,179,968 was not required by enforceable obligations or other legal requirements, and therefore, should be remitted to the County Auditor-Controller for disbursement to taxing entities. As summarized in Attachment C1, the Successor Agency and/or the Housing Authority of the City of Santa Clara listed obligations and expenditures in the amount of \$17,716,867 representing enforceable obligations for the period June 28, 2011 through June 30, 2012 that may be included in future Recognized Obligation Payment Schedules and subject to the approval by the State and the Oversight Board. The Successor Agency applied the amount of \$17,716,867 against the cash to be remitted to the County Auditor-Controller for disbursement to taxing entities of \$63,179,968 as discussed in Procedure 10.

At June 30, 2012 the Housing Authority of the City of Santa Clara has cash available in the amount of \$35,212,462 to remit to the County Auditor-Controller for disbursement to taxing entities. See reconciliation of the cash balance available at June 30, 2012.

3. If the State Controller's Office has completed its review of transfers required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report.

Finding: The State Controller's Office has not completed its review of transfers required under both Sections 34167.5 and 34178.8 nor issued its report regarding such review.

If this has not yet occurred, perform the following procedures:

- A. Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the former redevelopment agency to any other public agency or to private parties for the period from January 1, 2011 through January 31, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.

Finding: We obtained a listing prepared by the Successor Agency of transfers from the former redevelopment agency to any other public agency or to private parties and noted that the Successor Agency did not list any transfers for the period from January 1, 2011 through January 31, 2012.

- B. Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency to any other public agency or private parties for the period from February 1, 2012 through June 30, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.

Finding: We obtained a listing prepared by the Successor Agency of transfers from the Successor Agency to any other public agency or to private parties and noted that the Successor Agency did not list any transfers during the period from February 1, 2012 through June 30, 2012.

**City of Santa Clara, Successor Agency to the
Redevelopment Agency of the City of Santa Clara**

**Attachment A – Agreed-Upon Procedures and Findings
Low and Moderate Income Housing Funds**

- 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.

Findings: The procedure is not applicable. The Successor Agency did not list any transfers of assets to any other public agency or to private parties for the period January 1, 2011 to June 30, 2012.

4. Perform the following procedures:

- A. Obtain from the Successor Agency a summary of the financial transactions of the Redevelopment Agency and the Successor Agency in the format set forth in the attached schedule for the fiscal periods indicated in the schedule. For purposes of this summary, the financial transactions should be presented using the modified accrual basis of accounting. End of year balances for capital assets (in total) and long-term 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.

Finding: This procedure pertains to the Successor Agency as a whole as such this procedure will be addressed in the agreed-upon procedures report that is due on December 15, 2012, pursuant to guidance provided by the Department of Finance.

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.

Finding: We obtained from the Successor Agency a listing of all assets of the Low and Moderate Income Housing Fund as of June 30, 2012 and agreed the assets listed to the recorded balances reflected in the accounting records of the Successor Agency. The Successor Agency reported no assets of the Low and Moderate Income Housing Fund held by the Successor Agency at June 30, 2012.

**City of Santa Clara, Successor Agency to the
Redevelopment Agency of the City of Santa Clara**

**Attachment A – Agreed-Upon Procedures and Findings
Low and Moderate Income Housing Funds**

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.
 - 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.
 - 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.
 - 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.

Finding: We noted the Successor Agency did not have asset balances of the Low and Moderate Income Housing Fund held by the Successor Agency on June 30, 2012 and thus did not have asset balances that are restricted.

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.

**City of Santa Clara, Successor Agency to the
Redevelopment Agency of the City of Santa Clara**

**Attachment A – Agreed-Upon Procedures and Findings
Low and Moderate Income Housing Funds**

- B. If the assets listed at 7.A. are listed at purchase cost, trace the amounts to a previously audited financial statement (or to the accounting records of the Successor Agency) and note any differences.
- C. For any differences noted in 7.B., inspect evidence of disposal of the asset and ascertain that the proceeds were deposited into the Successor Agency trust fund. If the differences are due to additions (this generally is not expected to occur), inspect the supporting documentation and note the circumstances.
- D. If the assets listed at 7.A. are listed at recently estimated market value, inspect the evidence (if any) supporting the value and note the methodology used. If no evidence is available to support the value and/or methodology, note the lack of evidence.

Finding: We noted the Successor Agency did not have asset balances of the Low and Moderate Income Housing Fund held by the Successor Agency on June 30, 2012 and thus did not have asset balances that are not liquid or otherwise available for distribution.

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.
- 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.

**City of Santa Clara, Successor Agency to the
Redevelopment Agency of the City of Santa Clara**

**Attachment A – Agreed-Upon Procedures and Findings
Low and Moderate Income Housing Funds**

- a. 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:
 - a. Obtain from the Successor Agency its assumptions for the forecasted annual revenues and disclose in the report major assumptions associated with the projections.
- C. If the Successor Agency believes that projected property tax revenues and other general purpose revenues to be received by the Successor Agency are insufficient to pay bond debt service payments (considering both the timing and amount of the related cash flows), obtain from the Successor Agency a schedule demonstrating this insufficiency and apply the following procedures to the information reflected in that schedule:
 - 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.
- 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.

Finding: We noted the Successor Agency did not have asset balances of the Low and Moderate Income Housing Fund held by the Successor Agency on June 30, 2012 and thus did not have asset balances that need to be retained to satisfy enforceable obligations. As such the procedures listed are not applicable.

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.

Finding: We noted the Successor Agency does not have cash balances as of June 30, 2012 that need to be retained to satisfy obligations on the Recognized Obligation Payment Schedule for the period of July 1, 2012 through June 30, 2013.

**City of Santa Clara, Successor Agency to the
Redevelopment Agency of the City of Santa Clara**

**Attachment A – Agreed-Upon Procedures and Findings
Low and Moderate Income Housing Funds**

10. Include (or present) a schedule detailing the computation of the Balance Available for Allocation to Affected Taxing Entities. Amounts included in the calculation should agree to the results of the procedures performed in each section above. The schedule should also include a deduction to recognize amounts already paid to the County Auditor-Controller on July 12, 2012 as directed by the California Department of Finance. The amount of this deduction presented should be agreed to evidence of payment. The attached 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).

Finding: See Attachment B for the results of this procedure for the Low and Moderate Income Housing Fund. As described in Attachment C, at June 30, 2012 cash in the amount of \$63,179,968 was not required by enforceable obligations or other legal requirements, and therefore, should be remitted to the County Auditor-Controller for disbursement to taxing entities.

As discussed at Procedure 2, the Housing Authority of the City of Santa Clara has cash available in the amount of \$35,212,462 at June 30, 2012. As described in Attachment B, the Successor Agency believes that the amount to be remitted to the County Auditor-Controller for disbursement to taxing entities should also factor the following activities:

- 1) Obligations and expenditures on enforceable obligations during the period from June 28, 2011 to June 30, 2012 that may be included in future Recognized Obligation Payment Schedules in the amount of \$17,716,867;
- 2) Loan disbursed from the Housing Authority of the City of Santa Clara to City / Successor Agency in the amount of \$5,900,000;
- 3) Balances denied by the DOF in which the City had requested to initiate the Meet and Confer process to object the DOF's denial in the amount of \$17,060,859; and
- 4) Balances denied by the DOF in which the City has not requested to initiate the Meet and Confer process but subsequently decided to object the DOF's denial in the amount of \$6,907,667.

See the computation of the amount to be remitted to the County Auditor-Controller for disbursement to taxing entities of \$63,179,968 and the computation of the amount to be remitted to the County for disbursement to taxing entities as calculated by the Successor Agency of \$15,594,575 at Attachment B.

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.

Finding: No exceptions noted as a result of this procedure.

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA

ATTACHMENT B - LOW AND MODERATE INCOME HOUSING FUND ASSETS TRANSFERRED TO THE SUCCESSOR AGENCY THAT ARE AVAILABLE TO DISTRIBUTE TO AFFECTED TAXING ENTITIES

SUMMARY OF BALANCES AVAILABLE FOR ALLOCATION TO AFFECTED TAXING ENTITIES

Total amount of assets held by the successor agency as of June 30, 2012 (procedure 5)	\$	-
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)		63,179,968
Less assets legally restricted for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments (procedure 6)		-
Less assets that are not cash or cash equivalents (e.g., physical assets) - (procedure 7)		-
Less balances that are legally restricted for the funding of an enforceable obligation (net of projected annual revenues available to fund those obligations) - (procedure 8)		-
Less balances needed to satisfy ROPS for the 2012-13 fiscal year (procedure 9)		-
Less the amount of payments made on July 12, 2012 to the County Auditor-Controller as directed by the California Department of Finance		-
Amount to be remitted to the County Auditor-Controller for disbursement to taxing entities	\$	<u>63,179,968</u>

Reconciliation of amount per Due Diligence Review to the amount per City of Santa Clara:

		Notes
Amount to be remitted to county for disbursement to taxing entities as calculated above	\$ 63,179,968	Based on calculation above
Less: Obligations and expenditures subject to inclusion on future ROPS	(17,716,867)	See details at Attachment C1.
Less: Loan from Housing Authority to City / Successor Agency	(5,900,000)	See discussion at Attachment C1, item #18. Amount represents the total loan amount.
Less: Balances denied by the DOF in which the City has requested to initiate the Meet and Confer process to object the DOF's denial.	(17,060,859)	See details at Attachment C1.
Less: Balances denied by the DOF in which the City has not requested to initiate the Meet and Confer process.	(6,907,667)	See discussion at Attachment C1, item #9. Amount represents total remaining encumbrance plus amount disbursed from June 28, 2011 to June 30, 2012
Amount to be remitted to the County Auditor-Controller for disbursement to taxing entities per City of Santa Clara	\$ <u>15,594,575</u>	

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA

**Attachment C - Low and Moderate Income Housing Funds
Asset Transfers to the Housing Authority of the City of Santa Clara for the Period of January 1, 2011 through January 31, 2012**

<u>Asset Description</u>	<u>Name of the recipient</u>	<u>Date of Transfer</u>	<u>Book value of asset at date of transfer</u>	<u>Describe the purpose of the transfer and specify the enforceable obligation or other legal requirement requiring such transfer and the date of such requirement.</u>	<u>Finding</u>
Cash	Housing Authority of the City of Santa Clara	3/8/2011	\$ 59,782,871	Assets listed are subject to the Cooperation Agreement For Payment of Costs	The transfers between the former Agency and the Housing Authority of the City of Santa Clara on March 8, 2011 under the Cooperation Agreement dated February 8, 2011 summarized are subject to review by the State Controller's Office (SCO). The SCO will make the final determination as to the enforceability of the obligations under the Cooperation Agreement.
GASB 31 Unrealized Gain/Loss	Housing Authority of the City of Santa Clara	3/8/2011	1,100,604	Associated With Certain Redevelopment Agency Funded Low and Moderate	
Acct Rec Accrued Int-Bank	Housing Authority of the City of Santa Clara	3/8/2011	69,815	Income Housing Projects, entered into between the City of Santa Clara and	
AR Housing 1st Time Home Lo	Housing Authority of the City of Santa Clara	3/8/2011	12,004,765	Redevelopment Agency of the City of Santa Clara, dated February 8, 2011, and	
NCIP Loans	Housing Authority of the City of Santa Clara	3/8/2011	341,182	the Assignment and Assumption Agreement (Cooperation Agreement for Payment	
Loans Receivable	Housing Authority of the City of Santa Clara	3/8/2011	56,496,990	of Costs Associated with Certain Redevelopment Agency Funded Low and	
Land held for resale	Housing Authority of the City of Santa Clara	3/8/2011	7,103,770	Moderate Income Housing Projects between the City of Santa Clara and City of	
	Total Housing Assets Transferred on March 8, 2011		136,899,997		
	Less non-liquid assets		<u>(77,117,126)</u>		
	Total cash transferred on March 8, 2011		<u>\$ 59,782,871</u>		

<u>Transaction</u>		<u>Date</u>	<u>Cash Balance</u>	<u>Description</u>
Summary of cash activity from March 8, 2011 through June 30, 2012:		3/8/2011	\$ 59,782,871	Total cash transferred from the former Agency to the Housing Authority of the County of Santa Clara (Housing Authority)
Add: Cash received by Housing Authority of City of Santa Clara		3/8/11 - 6/27/11	(1,445,217)	Less allowable cash expenditures for the period 3/8/11 through 6/27/11 (See details at Attachment C1)
		3/8/11 - 6/27/11	2,844,280	Transfer of 20% set-aside property tax increment to the Housing Authority.
		3/8/11 - 6/27/11	687,678	Cash received on interest from cash and investments.
		3/8/11 - 1/31/12	302,804	Program income received by the Housing Authority before dissolution.
		6/28/11 - 6/30/12	3,085,698	Transfer of 20% set-aside property tax increment to the Housing Authority. The Housing Authority subsequently transferred back the cash received to the Agency.
		6/28/11 - 6/30/12	1,007,552	Cash received on interest from cash and investments
		11/15/11 - 1/23/12	(3,085,698)	Successor Agency and Oversight Board approved transfer from Housing Authority to Successor Agency on 5-22-2012 in the amount of \$3,082,026 to pay debt service payment on ROPS 1 due May 25, 2012 to fiscal agent. Difference between what is on books and agenda report is due to a County error on the tax increment remittance that was correct in August 2012. Transfer made to avoid default on all bonds.
Total cash transferred to the Authority for which an enforceable obligation with a 3rd party requiring such a transfer did not exist.			<u>63,179,968</u>	
Total amount disbursed from June 28, 2011 to June 30, 2012			(28,309,492)	
Other program income and reconciling items			<u>341,986</u>	
Deficit of cash to be remitted to County Auditor-Controller for disbursement to taxing entities at June 30, 2012			<u>(27,967,506)</u>	
Cash held by the Housing Authority of the City of Santa Clara at June 30, 2012 per accounting records			<u>\$ 35,212,462</u>	

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA

Attachment C1 - Low and Moderate Income Housing Funds
Description of Disbursements and Enforceable Obligations for the Period of March 8, 2011 through June 30, 2012

#	Description of the Enforceable Obligation	Encumbered balance per Cooperation Agreement dated 3/8/2011	Encumbered balance at 6/30/2012 per City's accounting records	Cash disbursed on enforceable obligations through June 27, 2011	Obligations and expenditures subject to inclusion on future ROPS	Total amount disbursed from June 28, 2011 to June 30, 2012	Amount subject to Meet and Confer with the State per City	City identified as specific enforceable obligation	Findings	Obligations listed on the ROPS/ EOOPS?	Housing Asset Transfer Form (HAT) objection by DOF?	City's response to HAT Form objection
1	910-9110 CIP Housing Administration and Grants to Non-Profit Housing Service Providers	2,436,000	2,274,403	\$ 188,559	\$ 179,432	\$ 564,982	\$ -	N/A	3-year contract signed between the former Agency and seven third parties during FY 2010 with renewable options for FY 2011 and FY2012. Renewal request from third parties received by the City during November 2010 for the extension for the FY 2012 contract term. Total grant amount for FY 2012 is \$179,432. Administrative cost incurred before June 28, 2011 for these activities are considered allowable. Based on City's accounting records, the total administrative cost and grants incurred before June 28, 2011 was \$188,559. The \$428,632 administrative costs incurred since June 28, 2011 are not considered an enforceable obligation unless they are directly related to the administration of enforceable housing obligations.	NO	Objected by DOF - item #9	No objection to DOF's objection
2	910-9159 CIP First Time Homebuyers Financing Program	3,800,520	2,411,741	320,000	-	1,048,455	3,460,196	Secondary mortgage loans, funds obligated by Operating Agreements with primary mortgage lenders, JP Morgan Chase (WAMU) and Neighborhood Housing Services Silicon Valley	Pursuant to Operating Agreements between the former Agency and two primary mortgage lenders, JP Morgan Chase (WAMU) and Neighborhood Housing Services Silicon Valley dated before 1/1/2011. No specific terms (length of contract or total amount committed) stated on the Operating Agreement. It appears that amount encumbered will be dependent on project specific agreement with third-party but not the Operating Agreements. No project specific agreement between former Agency and third party was provided.	NO	Objected by DOF - item #8	Meet and Confer #5
3	910-9160 and 915-9301 CIP BAREC Senior Housing	19,999,000	8,010,911	-	11,666,211	11,691,861	8,036,561	Land acquisition and development of housing subject to the Purchase and Sale Agreement between RDA and CA Dept. of General Services (7-5-2005), Development Agreement between City of SC, RDA, CA Dept. of General Services, and Summer hill Winchester, LLC (6-19-2007), and First Amendment to Purchase and Sale Agreement (12-13-2011). Land transfer (Grant Deed) completed 12-21-2011. Use requirement impractical without budget appropriations.	Pursuant to Purchase and Sale Agreement (PSA) between Agency and State Department of General Services (State) dated July 5, 2005, the maximum purchase price for the land acquisition was \$11,684,275. The actual disbursement for the land acquisition was \$11,666,211 made during January 2012. On June 19, 2007, the City, former RDA, State, and a third party entered into a Development Agreement. No specific commitment amount was stated on the Development Agreement. On December 13, 2011, the Housing Authority and the State entered into the First Amendment to Purchase and Sale Agreement (Amended PSA) and amended the terms of the original agreement. No specific commitment amount was stated on the Amended PSA. Pursuant to the PSA Section 2.2, entitled "Agency Costs in Addition to Price", the Agency shall be responsible for all costs relating to the transfer of title and/or development of the property/project. The Agency estimated the cost for the development of the project to be \$8 million and included the balance on its Housing Asset Transfer (HAT) Form. The Department of Finance has reviewed the HAT form and objected to the \$8 million transfer of encumbrance for the project as stated in its letter dated August 30, 2012. The City has requested to initiate the Meet and Confer Process regarding this obligation through its letter dated September 4, 2012. The approval of this balance is subject to final determination by the State.	NO	Objected by DOF - item #2 and #6	Meet and Confer #1 and #4
4	910-9163 CIP Sacco Surplus Site Monroe/San Tomas Expressway Housing Project	4,579,000	4,559,610	9,505	-	4,492	4,564,102	Grant Deed from RDA to HA for affordable housing development subject to enforceable obligation of Agreement For Purchase Of Real Property between RDA and County of Santa Clara (12-14-2004)	Pursuant to an Agreement for Purchase of Real Property between the Agency and the County of Santa Clara (County) and the Grant Deed recorded on January 11, 2005, the Agency purchased a property from the County. As stated on the Agreement for Purchase of Real Property between the Agency and the County, the County desired to sell the property to be utilized for affordable housing purpose, and the Agency expressed to the County its desire to purchase the property utilizing its Affordable Housing Fund. There's nothing stated in the agreement that requires the Agency to commit funds for the development of affordable housing. The Agency did not enter into agreement with a third party as of June 28, 2011.	NO	Objected by DOF - item #5	Meet and Confer #3
5	910-9172 CIP First Time Homebuyer Program for Condominium Conversions	1,000,000	1,000,000	-	-	-	1,000,000	Funds appropriated for mortgage financing for renters displaced by condominium conversion projects.	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation.	NO	Objected by DOF - item #12	Meet and Confer #6
6	910-9182 CIP Bill Wilson Center - The Commons Project	-	577,501	141,719	1,258,497	680,996	-	Acquisition and major rehabilitation of an existing 28-unit apartment facility subject to a Pride Gamut (10-10-2006), Afford House Gamut (4-17-2007), 1st Amend (6-23-2009), and 2nd Amend (3-30-2010).	Pursuant to Affordable Housing Loan Agreement dated April 17, 2007, the Agency agreed to loan up to \$3,500,000 to the third party. Pursuant to First Amendment to the Affordable Housing Loan Agreement dated June 23, 2009, the Agency agreed to loan an additional \$805,956 to the third party. Pursuant to Second Amendment to the Affordable Housing Loan Agreement dated March 30, 2010, the Agency agreed to loan an additional \$461,609 to the third party, which brings the total loan amount to \$4,767,565. Based on the Agency's accounting records, as of March 8, 2011, the total loan disbursement made was \$3,367,349 and remaining undisbursed loan commitment of \$1,400,216 is considered an enforceable obligation.	NO	Objected by DOF - item #4	Meet and Confer #2

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA

Attachment C1 - Low and Moderate Income Housing Funds
Description of Disbursements and Enforceable Obligations for the Period of March 8, 2011 through June 30, 2012

#	Description of the Enforceable Obligation	Encumbered balance per Cooperation Agreement dated 3/8/2011	Encumbered balance at 6/30/2012 per City's accounting records	Cash disbursed on enforceable obligations through June 27, 2011	Obligations and expenditures subject to inclusion on future ROPS	Total amount disbursed from June 28, 2011 to June 30, 2012	Amount subject to Meet and Confer with the State per City	City identified as specific enforceable obligation	Findings	Obligations listed on the ROPS/EOPS?	Housing Asset Transfer Form (HAT) objection by DOF?	City's response to HAT Form objection
7	910-9186 CIP Downtown Housing	8,500,000	7,158,618	-	-	-	-	Funds appropriated for affordable housing development to be located in the University Project Area.	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation.	NO	N/A	N/A
8	915-9308 CIP Downtown Housing		4,000,000	-	-	-	-	Funds appropriated for affordable housing development to be located in the University Project Area.	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation.	NO	N/A	N/A
9	910-9187 CIP ROEM Senior Housing Project 2525 El Camino Real	7,000,000	2,638	92,334	157,091	6,905,029	-	Financing for predevelopment, land acquisition and construction of a 48-unit apartment project, project introduction to Council (Jan 12, 2011), Pride Loan Gamut (Apr 19, 2011), Acquits Loan Gamut (July 12, 2011), AHA (Jan 24, 2012).	Pursuant to Predevelopment Loan Agreement dated April 19, 2011, the Agency agreed to loan up to \$249,425 to the third party. Pursuant to the Acquisition Loan Agreement dated July 12, 2011, the Authority agreed to loan the third party \$3,795,000 for site acquisition and additional predevelopment costs. The agreement also further committed the Authority to loan additional funds up to \$7,000,000. The Acquisition Loan Agreement was entered into after June 28, 2011 and does not constitute an enforceable obligation of the Agency.	NO	Objected by DOF - item #10	No objection to DOF's objection
10	910-9188 CIP Charities Housing Acquisition-Rehab Project	4,000,000	4,000,000	-	-	-	-	Funds appropriated for costs associated with acquisition and rehabilitation of an existing apartment facility in substandard condition.	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation.	NO	N/A	N/A
11	915-9300 CIP Unallocated for difference between Cash and Unspent Appropriations	-	653,309	-	-	-	-	N/A	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation.	NO	N/A	N/A
12	915-9302 CIP Purchase Old Fire Station #6 Site Montague Habitat for Humanity	391,000	376,856	400	-	4,833	-	Habitat Loan Agreement with City (August 17, 2010) for federal HOME funding predicated on HA financing and site transfer. Use requirement as affordable housing impractical without budgeted appropriations.	Pursuant to a HOME Capital Loan Agreement between the City of Santa Clara and the third party dated August 17, 2010. As such, this did not constitute an enforceable obligation of the Agency. During the period March 8, 2011 to June 28, 2011, the Agency disbursed \$4,433 pursuant to the 2011 Cooperation Agreement between the City and the Agency, which is considered an allowable pre-freeze expenditure.	NO	Objected by DOF - item #7	No objection to DOF's objection
13	915-9305 CIP Neighborhood Conservation & Improvement Program (NCIP)	1,263,950	619,393	94,254	-	470,645	-	Grants to homeowners for needed home repairs, including housing rehabilitation for handicap accessibility.	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation. During the period March 8, 2011 to June 28, 2011, the Agency disbursed funds pursuant to the Cooperation Agreement between the City and the Agency, which is considered an allowable pre-freeze expenditure.	NO	N/A	N/A
14	915-9306 CIP 1430 El Camino Real Housing Project Presidio	3,860,000	33,015	598,446	4,455,636	4,422,621	-	Pride Loan Gamut between RDA and CORE Affordable Housing LLC (5-11-10), Acquisition Loan Gamut (2-8-11), and Affordable Housing Loan Gamut (8-30-11).	Pursuant to Affordable Housing Loan Agreement dated May 11, 2010, the Agency agreed to loan up to \$200,000 to the third party. Pursuant to Acquisition Loan Agreement dated February 8, 2011, the Agency agreed to loan up to \$4,240,000 to the third party. The agreement also further committed the Agency to loan additional funds up to a total (all inclusive) maximum of \$8,000,000. As of June 28, 2011, \$598,446 was disbursed. The Agency disbursed an additional \$4,422,621 during the period from June 28, 2011 to June 30, 2012, and remaining encumbered balance based on the City's accounting record was \$33,015 and these balance are considered potentially allowable for future ROPS.	NO	N/A	N/A
15	915-9309 CIP Acquisition of City Housing	2,000,000	2,000,000	-	-	-	-	Funds appropriated for acquisition of four single-family homes currently owned by the City and used for affordable housing purposes through existing lease agreements.	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation.	NO	N/A	N/A
16	CitiMortgage FTHB overpayment	-	50,000	-	-	-	-	Unidentified overpayment by Citi Mortgage on First Time Home Buyer Program. Overpayment by Citi Mortgage made to RDA Housing made via wire on 2/5/08 and this obligation needs to be resolved and refunded. Investigation process is on going with Citi Mortgage.	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation. Based on the City's assertion and the documents provided, the third party overpaid \$50,000 to the former Agency in August 2008 and as of the report date, the investigation is still in process.	NO	N/A	N/A
17	Accounts Payable	-	45	-	-	-	-	N/A	There was not an executed contract or agreement between the Agency and the third party entered into before June 28, 2011 in place to substantiate the Agency's obligation.	NO	N/A	N/A

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA

Attachment C1 - Low and Moderate Income Housing Funds
 Description of Disbursements and Enforceable Obligations for the Period of March 8, 2011 through June 30, 2012

#	Description of the Enforceable Obligation	Encumbered balance per Cooperation Agreement dated 3/8/2011	Encumbered balance at 6/30/2012 per City's accounting records	Cash disbursed on enforceable obligations through June 27, 2011	Obligations and expenditures subject to inclusion on future ROPS	Total amount disbursed from June 28, 2011 to June 30, 2012	Amount subject to Meet and Confer with the State per City	City identified as specific enforceable obligation	Findings	Obligations listed on the ROPS/ EOPS?	Housing Asset Transfer Form (HAT) objection by DOF?	City's response to HAT Form objection
18	Loan from Housing Authority to City / Successor Agency	-	3,384,422	-	-	2,515,578	-	The amount of the City Advance shall be determined based on the cash flow shortfall of the Successor Agency and shall be made at such times as to ensure that payment due by the Successor Agency are made in a timely fashion. Loan up to \$5.9M from Housing Authority to City to Successor Agency approved by Successor Agency and Oversight Board on 5-22-2012 . Loan to avoid default on all TABs for May 2012 payment. Also, loan was used to make true-up payment to County Auditor-Controller in July 2012 and balance to be used for Nov 2012 TAB debt payments.	On May 28, 2012, the Oversight Board approved a loan from the Housing Authority to the City/Successor Agency for up to \$5.9 million to pay the enforceable obligations of the Successor Agency. As of June 30, 2012, \$2,515,578 was disbursed to the City/Successor Agency. As of the report date, the full \$5,900,000 approved loan amount was disbursed to the City/Successor Agency to pay for enforceable obligations per City's assertion. The loan disbursement is not considered an enforceable obligation for housing, but instead represents a cash flow loan from the Housing Authority to the City/Successor Agency. The Successor Agency's disbursement of the cash received through this loan will be considered allowable for usage of the non-housing assets given that it's used to pay enforceable obligations listed on the ROPS. The repayment of this loan was disallowed by DOF on ROPS III.	NO	N/A	N/A
Total		\$ 58,829,470	\$ 41,112,462	\$ 1,445,217	\$ 17,716,867	\$ 28,309,492	\$ 17,060,859					