

1-18-13

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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

RECEIVED

JAN 18 2013
City Clerk's Office
City of Santa Clara



January 16, 2013

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

Re: Reconciliation for Housing Due Diligence Review

Dear Oversight Board:

As requested by the Chair at the public hearing on the City of Santa Clara Successor Agency's Housing Due Diligence Review ("DDR"), Macias Gini & O'Connell has prepared a reconciliation of the DDR Audit results with the City's position. In addition, we have enclosed the description of categories of disallowances provided to the Board last week, along with a larger printout of the existing Attachment C1 from the DDR Report to show the auditors' findings in a more readable format.

We will be prepared to discuss this reconciliation at Friday's Board meeting. In addition, we will provide large printouts of the materials at the meeting. If any member wishes to receive large printouts prior to the meeting, we can make arrangements to provide those in advance.

Respectfully submitted,

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

Attachments:

- Categories of Disallowances
- Reconciliation of DDR Audit Number with City's Position
- Attachment C1 (Partial) – Itemized Findings

Board of Supervisors: Mike Wasserman, George Shirakawa, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

POST MEETING MATERIAL

Santa Clara RDA Housing Due Diligence Review

CATEGORIES OF DISALLOWANCES

The Due Diligence Report's determination of the amount to remit to taxing entities is \$63.2 million. The City believes that this amount should be \$15.6 million. All of the assets at issue are assets that were transferred from the former RDA to the City's housing authority. The main categories are described below. (Note: Some items could fall into multiple categories.)

1. Disallowed Items Without an Enforceable Obligation (\$13,875,843)

These are items for which there is no definite obligation to a third party. (Example: Prospective loans through the First-Time Homebuyer Program.)

2. Disallowed Items Entered Into After June 27, 2011 (*i.e.*, "Post-Freeze") (\$15,992,683)

These items were entered into after the statutory freeze imposed by the RDA Dissolution Law; they are void. (*See, e.g.*, Health & Saf. Code §§ 34163, 34177.3, 34179.5(b)(2).)

3. Likely Valid Enforceable Obligations –

a. If Paid Before EOPS Effective Date – Allowed Offset (\$1,445,217)

Pre-freeze (pre-6/28/11) RDA obligations to third parties paid *before* the EOPS period were *allowed* as offsets to the cash to be remitted. The \$63.2 million number already incorporates allowed offsets of \$1.4 million for these payments.

b. If Paid Without EOPS/ROPS Authority – Disallowed Offset (\$17,106,351)

These are pre-freeze RDA obligations to third parties paid after the EOPS effective date without being listed on the EOPS or ROPS. These *payments* were not permitted by law. (*See, e.g.*, Health & Saf. Code §§ 34167(h) (EOPS), 34177.3(c) (ROPS).)

c. If Not Yet Paid – Disallowed Offset (\$610,516)

These are items for which there is a likely valid enforceable obligation to a third party, but no payment was made and payments are due in the future. These items belong on future ROPS. The DDR process only allows the retention of cash for these items if it can be demonstrated, after accounting for all revenue sources, that there will be insufficient funds to meet *approved* enforceable obligations. (Health & Saf. Code § 34179.5(c)(5)(D).) Based on the establishment of assets and the Agency's approved enforceable obligations, the Santa Clara Successor Agency cannot demonstrate insufficient funds.

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

Amount	1. Disallowed items without an enforceable obligation	2. Disallowed items entered into after June 27, 2011	Likely Valid Enforceable Obligations		Total
			3(b). If paid without EOPS/ROPS authority	3(c). If not yet paid - disallowed offset	
	Amount to be remitted to Auditor-Controller for disbursement to taxing entities per Due Diligence Review				
					\$ 63,179,968
	Less: Obligations and expenditures subject to inclusion on future ROPS				
	Item #1 - Housing Administration and Grants to Non-Profit Housing Service	-	-	179,432	-
	Item #3 - BAREC Senior Housing	-	-	11,666,211	-
	Item #6 - Bill Wilson Center - The Commons Project	-	-	680,996	577,501
	Item #9 - ROEM Senior Housing Project 2525 El Camino Real	-	-	157,091	-
	Item #14 - 1430 El Camino Real Housing Project Presidio	-	-	4,422,621	33,015
	Subtotal	-	-	17,106,351	610,516
	Less: Loan from Housing Authority to City / Successor Agency				
	Item # 18 - Loan from Housing Authority to City / Successor Agency	5,900,000	-	-	-
	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.				
	Item # 2 - First Time Homebuyers Financing Program	3,460,196	2,411,741	-	-
	Item # 3 - BAREC Senior Housing	8,036,561	-	-	-
	Item # 4 - Sacco Surplus Site Montroie/San Tomas Expressway Housing Project	4,564,102	4,564,102	-	-
	Item # 5 - First Time Homebuyer Program for Condominium Conversions	1,000,000	1,000,000	-	-
	Subtotal	17,060,859	7,975,843	-	-
	Less: Balances denied by the DOF in which the City has not requested to initiate the Meet and Confer process.				
	Item # 9 - ROEM Senior Housing Project 2525 El Camino Real	6,907,667	-	-	-
	Subtotal	47,585,393	13,875,843	15,992,683	610,516
	Amount per City of Santa Clara				
					\$ 15,594,575

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA

Attachment C1 - Low and Moderate Income Housing Funds

Description of Disbursement and Enforceable Obligations for the Period of March 8, 2011 through June 30, 2012

#	Description of the Enforceable Obligation	City identified as specific enforceable obligation	Findings	Obligations listed on the ROPS/EOFS?	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	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	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	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 \$1,684,275. 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

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	City identified as specific enforceable obligation	Findings	Obligations listed on the ROFS/EOPS?	Housing Asset Transfer Form (HAT) objected by DOF?	City's response to HAT Form objection
4	910-9163 CIP Sacco Surplus Site Monroe/San Tomas Expressway Housing Project	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 purposes, 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	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	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
7	910-9186 CIP Downtown Housing	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	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	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), Acquis 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	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

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	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
11	915-9300 CIP Unallocated for difference between Cash and Unspent Appropriations	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	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)	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	Pride Loan Gamut between RDA and CORE Affordable Housing LLC (5-1-10), 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	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	Citi Mortgage FTHB overpayment	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	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	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	<p>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.</p>	<p>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.</p>	NO	N/A	N/A
Total						

**FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT**

This FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "First Amendment") is made as of December 13, 2011 by and between the State of California, Department of General Services ("State" or "Department") and the Housing Authority of the City of Santa Clara, a public body, corporate and politic ("Authority"), with reference to the following:

RECITALS

A. State and the Agency entered into that certain Purchase and Sale Agreement dated July 5, 2005 (the "Purchase Agreement"), a public record on file in the offices of the Authority, related to certain real property (the "Seniors' Property"), as depicted and more particularly described therein. All capitalized terms not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

B. 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.

C. The Purchase Agreement contemplates that the Seniors' Property is being sold by the State as surplus property pursuant to the provisions of Chapter 631 of the Statutes of 2002, Section 1 and in accordance with California Government Code Section 11011.1.

D. The Purchase Price of the Seniors' Property is a discounted value from market value in order to provide for the affordable housing for the PD Site in accordance with California Government Code Section 11011.1.

E. The Purchase Agreement contemplates that the Authority, a successor in interest to Agency, may assign all or a portion of its rights under the Purchase Agreement to a Seniors' Developer for the purpose of developing the Seniors' Project, provided that Authority shall not be released from its obligations under the Purchase Agreement without State's written consent.

F. The parties now desire to delete the Affordability Covenants that were attached to the Purchase Agreement as Exhibit F and instead use the Affordability Covenants attached hereto as Exhibit A. Concurrently with the conveyance of the

"State"
STATE OF CALIFORNIA
Department of General Services
Real Estate Services Division

By: *Joe Muntaran*
Name: JOE MUNTARAN
Title: CHIEF ASSET MANAGEMENT BOARD

APPROVED AS TO FORM:

By: *Clayton Holtz*
Name: CLAYTON HOLTZ
Title: STAFF COUNSEL III

[Signatures continue on following page.]

Due Diligence Review for the Low and Moderate Income Housing Fund

**Oversight Board for the Dissolution of the
Santa Clara Redevelopment Agency**

January 18, 2013

Successor Agency's Position on Reconciling the DDR

Remittance amount based on County review \$63,179,968

Exceptions to the remittance amount due to:

- A. *Obligations/Expenditures* for future ROPS (\$17,716,867)
- B. Loan from Housing Authority to Successor Agency (\$ 5,900,000)
- C. *DOF Meet & Confer* (Feb 20, 2013) (\$17,060,859)
- D. *Contractual commitment* to third party (\$ 6,907,667)

Uncommitted Funds for remittance \$15,594,575

**Enforceable Obligations/Expenditures for Future
ROPS per Cooperation Agreements listed on EOPS
Adopted 8-16-11 and Amended 1-24-12**

Obligations and Expenditures

Hous Admin/Grants to Non-Profits	\$179,432
BAREC Property	\$11,666,211
BWC Peacock Commons Project	\$1,258,497
ROEM Senior Apts. 2525 ECR	\$157,091
Presidio Apts. 1430 ECR	<u>\$4,455,636</u>
	\$17,716,867

Obligations/Expenditures for future ROPS

Housing Admin/Grants to Non-Profits \$179,432

Fiscal Year 2011-12 LMIHF Contractual Commitments

Project Sentinel Fair Housing Services	\$19,026
Catholic Charities Housing Search Services	\$16,912
Silicon Valley Independence Living Center	\$21,335
Council on Aging Senior Case Mgmt	\$5,013
Next Door Solutions to Domestic Violence	\$23,877
EHC LifeBuilders	\$50,657
Project Sentinel Mortgage Counseling	\$14,060
InnVision Emergency Rental Assistance	<u>\$47,500</u>
Total Contractual Commitments	\$198,380

BAREC Senior Housing Project

\$11.6 million land purchase – 5.8 acres

Commitments relying on LMIHF:

- 7/5/2005 Purchase Agreement with State (land + use) requiring purchase of property for \$11.6M;
- 6/19/2007 Development Agreement between RDA, City, State and SummerHill Homes*;
- 2/5/2008 Measure A approved by City voters to amend General Plan for BAREC housing development, including affordable housing
- 3/9/2011 Cooperation/Assignment Agreement assigned PSA to Housing Authority
- 6/27/2011 ABx1 26
- 12/13/2011 Purchase Agreement First Amendment with State (State DGS recognizes validity of Cooperation Agreement/Assignment Agreements)
- 1/5/2012 escrow closes on Housing Authority's land purchase

BWC – Peacock Commons Project
\$1.25M enforceable obligation

Commitments relying on LMIHF:

- 4/17/2007 Affordable Housing Loan Agreement \$3.5 M;
- 6/23/2009 First Amendment to Loan Agmt \$805,956;
- 3/30/2010 Second Amendment to Loan Agmt \$461,609.

ROEM Camino del Rey Project **Obligated Funds in Dispute - \$157,091**

Commitment relying on LMIHF:

- 7/16/2010 Affordable Housing Proposal submitted to City by Developer (ROEM) to include RDA financing
- 1/25/2011 introduced to Council/RDA, \$6.8 M subsidy for 48 units 100% affordable
- 2/8/2011 RDA budgets \$7.0M for project financing
- 3/9/ 2011 Cooperation/Assignment Agreements
- 4/19/2011 Pre-Development Loan Agreement (\$249,425)
- 6/27/2011 ABx1 26
- 7/12/2011 Acquisition Loan Agreement (\$3.75 M loan with commitment of \$7.0 M)
- 1/24/2012 Affordable Housing Loan Agreement and Agreement to Lease Real Property (\$7.0 M)
- 2/1/2012 CA Tax Credit Allocation Committee issues Reservation Letter for State & Federal Tax Credits

Presidio El Camino Project **Obligated Funds in Dispute - \$4.45 M**

Commitments relying on LMIHF:

- 3/9/2010 RDA initial funding approval for predevelopment and land purchase (\$2.9M) with reference to \$7.9M total investment
- 5/11/2010 Predevelopment Loan Agreement (\$200,000 loan);
- 2/8/2011 Acquisition Loan Agreement (\$4.24 M loan with commitment of \$8.0 M) accepted on the Housing Asset Transfer List by DOF;
- 3/9/2011 Cooperation/Assignment Agreements
- 6/27/2011 ABx1 26
- 8/30/2011 Affordable Housing Agreement (\$8.0 M loan);
- 9/7/2011 CA Tax Credit Allocation Committee issues Reservation Letter for State and Federal Tax Credits

**OB Authorized Loan to pay non-housing
Enforceable Obligations
on ROPS I and ROPS II**

Housing Authority loan to Successor Agency	<u>Issued Loan</u>
	\$5,900,000

LMHFF \$5.9 M Loan for Payment of Enforceable Obligations listed on ROPS I and ROPS II

- Loan to cover debt on OB-approved ROPS I (Jan 1 – June 30, 2012) and ROPS II (July 1 – Dec 31, 2012) due to County retention of funds from RPTTF for distribution to taxing entities.
- Funds not to be paid twice

Projects Subject to Meet & Confer with CA Dept of Finance

	<u>Obligations</u>
1 st Time Homebuyer Finance Program	\$3,460,196
BAREC Property	\$8,036,561
Monroe/San Tomas Project	\$4,564,102
1 st Time Homebuyer Finance Condo	<u>\$1,000,000</u>
	\$17,060,859

First Time Homebuyer Financing Program

Obligated Funds - \$3.46M

Funding for secondary mortgage loans based on agreements with primary commercial lenders to make annual funding appropriations for Agency loans.

- 7/18/2006 Operating Agreement w/ Neighborhood Housing Services Silicon Valley
- 4/3/2007 Operating Agreement w/ WAMU assumed by Chase Home Loans
- 3/9/2011 Cooperation/Assignment Agreements
- 6/27/2011 ABx1 26
- Of the disputed funds, \$1.1M loaned to homebuyers after June 27, 2011

Subject to DOF Meet & Confer

BAREC Senior Housing Project **Obligated Funds In Dispute - \$8.0**

Commitment relying on LMIHF:

- 6/19/2007 Development Agreement between RDA, City, State and SummerHill Homes;
 - §5.3 SummerHill shall be reimbursed for the proportionate share of costs for installing internal streets, and infrastructure improvements, including sewer, storm drain, water main extensions that serve the senior housing parcel.
- 1/5/2012 Land purchase completed, Housing Authority owns Fee Title and obligation to pay infrastructure costs per DA, PSA and Grant Deed

Subject to DOF Meet & Confer

Monroe St/San Tomas Expressway Site **Obligated Funds in Dispute - \$4.5 M**

Commitment relying on LMIHF:

- 12/4/2004 Purchase Agreement with County for 2.5 acre surplus land for market value of \$5.4M
- Purchase Agreement obligates RDA to develop land as affordable housing for low/moderate income households

If obligation is not satisfied, City could be held in non-compliance of the Purchase Agreement by County.

First Time Homebuyer Financing Program for Condo

Conversion

Obligated Funds - \$1.0M

Funding for secondary mortgage loans based on agreements with primary commercial lenders to make annual funding appropriations for Agency loans.

- 7/18/2006 Operating Agreement w/ Neighborhood Housing Services Silicon Valley
- 4/3/2007 Operating Agreement w/ WAMU assumed by Chase Home Loans
- 3/9/2011 Cooperation/Assignment Agreements
- 6/27/2011 ABx1 26

Contractual Commitment to a Third Party

ROEM Camino del Rey Project \$6,907,667
2525 ECR

Contractually committed to third party

Camino del Rey Project

Commitment relying on LMIHF:

- 7/16/2010 Affordable Housing Proposal submitted to City by Developer (ROEM) to include RDA financing
- 1/25/2011 introduced to Council/RDA, \$6.8 M subsidy for 48 units 100% affordable
- 2/8/2011 RDA budgets \$7.0M for project financing
- 3/9/2011 Cooperation/Assignment Agreements
- 4/19/2011 Pre-Development Loan Agreement (\$249,425)
- 6/27/2011 ABx1 26
- 7/12/2011 Acquisition Loan Agreement (\$3.75 M loan with commitment of \$7.0 M)
- 1/24/2012 Affordable Housing Loan Agreement and Agreement to Lease Real Property (\$7.0 M)
- 2/1/2012 CA Tax Credit Allocation Committee issues Reservation Letter for State & Federal Tax Credits

Recommended Action of Oversight Board

- Approve the Resolution prepared by the Successor Agency approving the Housing Due Diligence Review and finding that the unencumbered funds available for distribution to the taxing entities is \$15,594,575 and making the findings set forth in the resolutions.

It would 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. DOF meet and confer scheduled 2/20/13.

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

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ASSISTANT COUNTY COUNSEL

January 18, 2013

HAND DELIVERED

Don Gage, Chairperson
Oversight Board Members
Oversight Board for Successor Agency to the
City of Santa Clara Redevelopment Agency
1500 Warburton Ave
Santa Clara, CA 95050

Re: January 18, 2013 agenda item #3A (Low- and Moderate-Income Housing Due Diligence Review)

Dear Chairperson Gage and Oversight Board members:

We are writing on behalf of the County of Santa Clara Auditor-Controller Vinod K. Sharma to briefly address some of the legal issues raised by the City/Successor Agency in response to the low- and moderate-income housing due diligence review ("Housing DDR"). In sum, the County Auditor-Controller has considered all of the legal arguments proffered by the City/Successor Agency and does not believe these arguments warrant any changes to the Housing DDR. Some of the key issues are discussed in more detail below.

Statute of Limitations For Challenging RDA-City Agreements

The City/Successor Agency asserts that the statute of limitations for challenging the Cooperation Agreement between the RDA and the City, and the Agreement of Assignment between the RDA and the Housing Authority, expired before ABX1 26 took effect; therefore, these Agreements cannot be challenged. This assertion misinterprets the applicable statutes and misrepresents the law on the Legislature's authority to retroactively alter statutes of limitations.

The Legislature has broad authority to alter and expand statutes of limitation, and may do so retroactively. This includes the power to revive claims that had previously lapsed where the Legislature's intent to do so is clear. When enacting ABX1 26, the Legislature drew clear distinctions between actions that occurred before and after January 1, 2011. (See, e.g., Health & Saf. Code, §§ 33500, 33501, 34162(a)(3), 34163(c), 34165(e), 34167.5, 34177.5.)¹

The City/Successor Agency asserts that the 90-day statute of limitations in section 33501(b) bars lawsuits challenging actions that occurred more than 90 days before ABX1 26 was enacted (June 28, 2011). For example, the two-year statute of limitations in section 33501(d)

¹ Unless otherwise indicated, all further section references are to the Health and Safety Code.

only applies to actions taken after March 29, 2011. This interpretation directly conflicts with the statutory language establishing January 1, 2011 as the relevant date for actions subject to the two-year limitations period and, thus, would be rejected by the courts.

Timing of Contractual Commitments To Third Parties

The City/Successor Agency also asserts that the clawback provision in section 34167.5 does not apply if the assets are contractually committed to a third party *at any time before* the State Controller orders the assets to be returned to the Successor Agency. This interpretation is also at odds with the letter and intent of the law and prior directives from the State Controller.

Section 34167.5 plainly states that “a transfer of assets by a redevelopment agency during the period covered in this section [between January 1, 2011 and the effective date of this act] is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized.” Section 34171(d)(2) also makes it clear that any contracts between an RDA and its sponsor city are not valid “enforceable obligations.”² The State Controller’s Office recognized this in an order issued ten months ago:

[I]f a city, county, or other public agency, directly or indirectly, received any ineligible assets from a redevelopment agency after January 1, 2011, it will be ordered to immediately reverse the transfer and return the applicable assets to the successor agency of the relevant redevelopment agency. This order applies in all situations except if the city, county, or other public agency has previously contractually committed to a third party for the expenditures or encumbrance of a specific asset. *Such a commitment must be in place prior to June 29, 2011.* (March 15, 2012 Letter from Jeffrey V. Brownfield, Chief, Division of Audits, to all county auditor-controllers, p. 1 (emphasis added).)³

The interpretation of the County Auditor-Controller and State Controller is also in harmony with other provisions enacted by ABX1 26 and AB 1484. For example, as of June 28, 2011, RDAs were prohibited from entering into any new obligations or pledging or disposing of their revenues or assets. (Health & Saf. Code, §§ 34162, 34163; *see also* § 34179.5(b)(2) (defining “enforceable obligation” as contracts entered into by an RDA before June 28, 2011).)⁴

² The Housing Authority falls within the definition of “city” for purposes of the redevelopment dissolution law. (Health & Saf. Code, § 34167.10.) Thus, the Housing Authority is not an “other public agency” for purposes of section 34171(d)(3) or any other provision of the redevelopment dissolution law.

³ Initially there was some uncertainty regarding the cutoff date for the creation of enforceable obligations. The courts subsequently determined that ABX1 26 took effect on June 28, 2011; thus, the last date that an enforceable obligation could have been established was June 27, 2011. The Legislature also expressly recognized the June 27, 2011 cutoff date in AB 1484. (Health & Saf. Code, § 34177.3(d).)

⁴ For the same reason, third parties were on clear notice no later than June 28, 2011 (ABX1 26’s effective date) that any contracts that related to or arose out of any transfer of redevelopment assets to the City or Housing Authority were unauthorized and, therefore, could not be reasonably relied upon. Hence, there is no basis for any impairment of contract claims.

Letter to Santa Clara Oversight Board
Re: Housing Due Diligence Review
Date: January 18, 2013
Page 3

Retention of \$17,716,867 Subject To Future ROPS Approval

The City/Successor Agency asserts that it should be allowed to retain \$17,716,867, which represents the amount of obligations and expenditures potentially subject to inclusion on future ROPS. (Jan. 4, 2012 letter from Acting City Manager to Oversight Board, pp. 6-7.) While it may seem impractical for the City/Successor Agency to have to return these funds, as explained in the DDR, unless and until these obligations are included on an approved ROPS, there is no lawful basis for the City/Successor Agency to retain these funds.

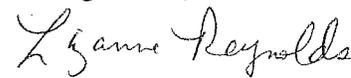
BAREC Senior Housing Project

With respect to the BAREC Senior Housing project, the City/Successor Agency asserts that the State of California Department of General Services (“DGS”) “expressly recognized the validity of the Cooperation/Assignment Agreements and the eligibility of the assignments pursuant thereto.” (Jan. 4, 2012 letter from Acting City Manager to Oversight Board, p. 7.) Even assuming, for argument’s sake, that DGS rendered this opinion, it is irrelevant. DGS has no role in implementing the redevelopment dissolution law, and its opinion is not binding on the state. Moreover, the California Department of Finance, which does have an official role in implementing the redevelopment dissolution law, has already rendered a determination disallowing this agreement. (See Aug. 30, 2012 letter from Steve Szalay, Dept. of Finance, to Ron Garratt.)

Conclusion

On behalf of the County Auditor-Controller, we respectfully request that the Oversight Board approve the Housing DDR without revision. We are also providing a copy of the County Auditor-Controller’s agreed-upon procedures audit (“AUP”), which was previously provided to the Oversight Board members, to avoid any dispute about whether this document is part of the administrative record.

Very truly yours,
LORI E. PEGG
Acting County Counsel


Lizanne Reynolds
Deputy County Counsel

County of Santa Clara

Finance Agency

County Government Center
70 West Hedding Street, East Wing 2nd floor
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Monday, December 17, 2012

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

Ms. Ana J. Matosantos, Director
Department of Finance
915 L Street
Sacramento, CA 95113

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 Redevelopment Agency Agreed Upon Procedures Report Pursuant to
Health and Safety Code Section 34182**

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

We present this Agreed Upon Procedures Report for the Santa Clara Redevelopment Agency ("Agency") in accordance with Health and Safety Code section 34182. This Report is presented in several sections, with attachments including schedules for the establishment of assets, liabilities, transfers and Successor Agency real property. The agreed upon procedures were performed jointly by both County Finance Agency staff and staff from Harvey M. Rose and Associates, LLC.

By law, the purpose of this report is to establish the assets, liabilities, and other indebtedness of the former redevelopment agency, as well as to document and determine any passthrough payment obligations to taxing entities. We highlight the major findings below.

Major Findings:

Assets

Schedule 1 shows all assets that were available upon termination of the Agency on January 31, 2012, which are comprised of \$17.9 million, plus assets that have been transferred and must be returned by

Board of Supervisors: Mike Wasserman, George Shirakawa, Dave Cortese, Ken Yeager, Liz Kniss
County Executive: Jeffrey V. Smith

the City of \$302 million. Assets have been divided into two subgroups: (1) Assets Transferable to the Housing Successor Agency totaling \$77.4 million, and (2) Assets Available for the Successor Agency of \$320 million. This latter group of assets will be under the purview of the Oversight Board. Total established assets for the Successor Agency as shown on Schedule 1 total \$319,873,479. A full list of all real properties and their rents are shown on Schedule 4.

As the above numbers indicate, there were several significant adjustments to assets listed by the Successor Agency, which were primarily the result of city transfers. To understand the basic context, we recommend reading Narrative Section 2. On March 8, 2011, virtually all assets were transferred from the Agency to either the City or to a City component unit. Major adjustments to assets included:

1. *Transfer of Gateway Parcel 2:* Due to the significant findings on this item we have devoted Section 5 of the narrative to explain the full transaction. In short, in 2000, the City and Agency entered into a Cooperation Agreement for the transfer of three parcels in return for the payment of ground lease rents from the development of those parcels. Only one of the three parcels was actually transferred, however, and, in 2005, the Agreement was amended to institute a retroactive loan at 11% interest for the maximum appraisal value of *all three parcels*. The result of this was that the 2005 Amendment served as a mechanism to transfer lease revenues from *other* properties, most notably Great America (rents of \$5.3 million annually), while the loan value was continually increasing by an accrual of \$11.1 million of interest each year.

Consequently, by March 2011, the loan value was calculated as \$152,243,523 by the City. Our recalculation of the loan balance, using \$40 million of principal representing the one parcel that was actually transferred and interest at LAIF rates, indicates that the loan would have actually been overpaid by \$8.4 million at that time. However, the City applied \$137 million against the inflated loan balance as payment for several properties transferred back to the City. In reality, this represented zero compensation for these properties.

The City subsequently listed the net remaining loan balance of \$16 million (inflated by 11% future interest to \$88.5 million) on its EOPS and ROPS I as payable to the City. Our calculations indicate that the loan was overpaid and that \$8.4 million is owed to the Successor Agency from the City for the overpayment. This is listed on Schedule 1, Item 9.

2. *Cash Transfers:* General cash and equivalents in the amount of \$27 million, plus unencumbered housing cash of \$62.2 million, was transferred to the City and must be returned, with interest.
3. *Bond Proceeds:* Restricted bond funds in the amount of \$61.2 million must be returned to the Successor Agency, and bond proceeds of \$27.7 million (from the 2011 TAB) must be returned to the bond trustee for debt redemption, all with interest.

4. *Property Assets*: Land and Construction in Progress with a book value of \$113.5 million must be returned to the Successor Agency, along with \$8.3 million in rents, plus earned interest, collected by the City since transfer. In addition, all subsequent rents after January 31, 2012, received by the City on all transferred properties must also be returned to the Successor Agency, plus interest. These rents total \$13.4 million annually.

Liabilities

Liabilities are shown on Schedule 3, totaling \$228,942,189 and are comprised primarily of bonded debt of \$208 million.

1. As described in Narrative Section 2, the City attempted to transfer appropriation authority from the Agency to the City in February 2011 and subsequently transacted business as the City. In doing this, the City listed 2011 Cooperation Agreements with the City as authority for payments on the EOPS and ROPS. Because the dissolution law requires that actual payments be listed, the City had no authority for contractual payments made after August 15, 2011, the date of EOPS adoption. The City will need to work with the DOF to resolve this troubling situation. Narrative Sections 7 and 8 identified actual enforceable contractual obligations totaling \$20.1 million, and we have included them on the statement of liabilities.
2. Furthermore, the City entered agreements pledging agency funds after the June 27, 2011 "freeze" date after which RDAs were prohibited from entering new agreements. In addition, the City was signatory to the majority of agreements detailed in Narrative Sections 7 and 8. These are not enforceable obligations of the RDA, and, to the extent the City authorized these expenditures, the City is liable.
3. Section 5 of Schedule 3 details three city loans, totaling \$88.3 million, inclusive of the Gateway loan described earlier. AB 1484 allows Oversight Boards to restore such loans adjusted to LAIF rates from inception, upon receiving a finding of completion from DOF. After adjusting the Gateway loan described earlier and adjusting the remaining two loans at LAIF rates, the combined net loan balance is a \$2 million *overpayment*. Due to the overpayment of the Gateway loan, we recommend that the remaining two loans not be restored by the Oversight Board.

As described in Narrative Sections 2, 6, 7 and 8, the City's actions to transfer both assets and appropriations authority from the Agency to the City substantially complicated the dissolution process and the AUP review. As a consequence, the Successor Agency's ROPS will need to be adjusted in the future to permit the payment of enforceable obligations that were not previously listed, subject to DOF approval. It is important to note, however, that the vast majority of claimed encumbrances do not qualify as Agency enforceable obligations as shown in Sections 7 and 8.

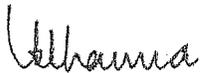
Passthrough Obligations

The Agency has two Health and Safety Code section 33676 (Basic Aid) passthrough obligations and numerous AB 1290 (statutory) passthrough obligations. Attachment C details these obligations and notes that all future passthrough computations and payments will be the responsibility of the County Finance Agency.

Asset Transfers

Schedule 2 details the transfers identified in the audit, which involved virtually all assets that were in the Redevelopment Agency on March 8, 2011, the date that the City and Agency took action to wholesale transfer assets to the City. In addition, there were several subsequent transfers. Subsequent to January 31, 2012, due to cash shortages in the Successor Agency in meeting the ROPS I payments, the City transferred back \$3,085,698 in housing cash and made a "loan" of \$5.9 million to the Successor Agency. These amounts will be reflected on the Due Diligence Reviews as transfer offsets. All remaining transferred assets are subject to claw-back actions by the State Controller's Office as required under Health and Safety Code section 34167.5 and through the Due Diligence Review process under Health and Safety Code sections 34179.5 and 34179.6. These assets have been restated on Schedule 1.

Respectfully Submitted,



Vinod K. Sharma, CPA
Director of Finance
County of Santa Clara

**Dissolution Audit
of the
Redevelopment Agency
of the
City of Santa Clara**

Phase 2 Report

**Establishment of
Assets, Liabilities and Transfers
As of January 31, 2012**

**Auditor-Controller of the
County of Santa Clara**



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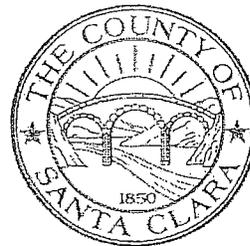
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County of Santa Clara

Finance Agency
Controller-Treasurer Department

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Independent Accountant's Report on Applying Agreed-Upon Procedures

We have performed the agreed-upon procedures enumerated in Attachment A, which were agreed to by the California State Controller's Office, the California State Department of Finance, and the County of Santa Clara Auditor-Controller (County), and the additional agreed-upon procedures requested and agreed to by the County, solely to assist the County in ensuring that the dissolved Redevelopment Agency of the City of Santa Clara (City) is complying with its statutory requirements with respect to Assembly Bill (AB) x1 26 and AB 1484. Management of the City is responsible for the accounting records pertaining to statutory compliance pursuant to California Health and Safety Code section 34182(a). This agreed-upon procedures audit was conducted for the purpose of establishing assets, liabilities, indebtedness, and pass-through obligations of the Santa Clara Redevelopment Agency as of January 31, 2012. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested, or for any other purpose.

We were not engaged to and did not conduct a full financial statement audit, the objective of which would be the expression of an opinion on the results. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the County Auditor-Controller, Santa Clara Oversight Board, the California State Controller's Office, and the California State Department of Finance, and is not intended to be, and should not be, used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Pursuant to government auditing standards of the United States Government Accountability Office (USGAO), following the preparation of a draft report, we provided a copy of the report to the City on October 25, 2012, and received comments as included in Attachment E.

Vinod K. Sharma, C.P.A.
Auditor-Controller
Santa Clara County

San Jose, California
December 14, 2012

Board of Supervisors: Mike Wasserman, George Shirakawa, Dave Cortese, Ken Yeager, Liz Kniss
County Executive: Jeffrey V. Smith

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SCHEDULE 1

City of Santa Clara Redevelopment Agency

Establishment of Assets at 1/31/12

County of Santa Clara Auditor Controller

(Per ABX1 - 26 Section 34182)

NO.	Description	Unaudited Balance per RDA Books 1/31/2012	Adjustments		Established Per Auditor/Controller 1/31/2012
			Increases Amount	Decreases Amount	
			Ref. Narrative	Ref. Narrative	
Assets Transferable to Housing Successor Agency					
1	Loans Receivable	\$ -	Sect 3, Item 1 \$ 68,842,937	-	\$ 68,842,937
2	Land	\$ -	Sect 3, Item 2 \$ 8,583,667	-	\$ 8,583,667
	Sub Total	\$ -	\$ 77,426,604		\$ 77,426,604
Assets Transferable to Successor Agency					
3a	Cash and Investments - Unrestricted	\$ 5,281,220	Sect 3, Item 3a \$ 20,454,337	-	\$ 25,735,557
3b	Unrealized Gain (Loss) - Unrestricted	\$ 203,364	\$ -	-	\$ 203,364
3c	Cash - Lease Revenues Collected By City	\$ -	Sect 3, Item 3c \$ 8,332,502	-	\$ 8,332,502
4	Cash - Restricted Bond Funds	\$ -	Sect 3, Item 4 \$ 62,756,160	Sect 4, Item 1 ^a \$ 1,480,401	\$ 61,275,759
5	Cash - Housing Set-Aside	\$ -	Sect 3, Item 5 \$ 2,844,080	-	\$ 2,844,080
6	Cash - Housing Unrestricted	\$ -	Sect 3, Item 4 \$ 59,782,871	Sect 3, Item 6 ^b \$ 1,291,773	\$ 58,144,435
7a	Housing - Unrealized Gain (Loss) - Unrestricted	\$ -	Sect 4, Item 4 \$ 1,100,604	-	\$ 1,100,604
7b	Housing - Accrued Interest Receivable	\$ -	Sect 4, Item 4 \$ 69,815	-	\$ 69,815
8	Cash - Debt Service Reserve	\$ 12,439,209	Sect 3, Item 8 \$ 27,697,231	-	\$ 40,136,440
9	Due From City of Santa Clara-Loan Overpayment	\$ -	Sect 3, Item 9 \$ 8,451,373	-	\$ 8,451,373
10	Land	\$ -	Sect 3, Item 10 \$ 106,600,874	-	\$ 106,600,874
11	Construction in Progress	\$ -	Sect 3, Item 11 \$ 6,978,676	-	\$ 6,978,676
	Sub Total	\$ 17,923,793	\$ 305,068,523	\$ 3,118,837	\$ 319,873,479
	Total Assets	\$ 17,923,793	\$ 382,495,127	\$ 3,118,837	\$ 397,300,083

Note: a) Offset to Cash - Restricted Bond Funds - Narrative Section 4, Item 1.
 b) Offset with the Authorized Cash Expenditures - Narrative Section 8 - Authorized Appropriations Transferred.
 c) Offset with Accounts Payable - Narrative Section 4, Item 4.

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City of Santa Clara Redevelopment Agency
Asset Transfer Schedule
County of Santa Clara Auditor Controller
(Per ABX1 - 26 Section 34182)

No.	Date	Transfer From	Transfer To	Item Transferred	Amount Transferred	Stated Purpose	Section-4 Reference	To be reversed?
1	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Construction in Progress: Parking Structure Pedestrian Bridge	\$ 1,851,391	Property conveyance to City of Santa Clara	Land-2	Yes
2	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Construction in Progress: SCCC Ballroom Expansion	\$ 581,645	Property conveyance to City of Santa Clara	Land-2	Yes
3	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: Conference Center Property	\$ 4,730,000	Property conveyance to City of Santa Clara	Land-2	Yes
4	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: Treatment	included in line 3	Property conveyance to City of Santa Clara	Land-3	Yes
5	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: Hyatt Hotel	included in line 3	Property conveyance to City of Santa Clara	Land-4	Yes
6	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: North/South Parcels	\$ 3,185,000	Property conveyance to City of Santa Clara	Land-7	Yes
7	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: Theme Park Land	\$ 71,532,992	Property conveyance to City of Santa Clara	Land-6	Yes
8	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Construction in Progress: Northside Branch Library	\$ 463,375	Property conveyance to City of Santa Clara	Land-12	Yes
9	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Construction in Progress: Walsh Ave Sanitary Sewer Improvement	\$ 1,711,301	Property conveyance to City of Santa Clara	Land-13	Yes
10	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: Payment for Land 4819 Green America	\$ 8,860,000	Property conveyance to City of Santa Clara	Land-5	Yes
11	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: 1350 Pope Drive Prop. Acquisition	\$ 1,444,589	Property conveyance to City of Santa Clara	Land-8	Yes
12	March 8, 2011	University Redevelopment	City of Santa Clara	Construction in Progress: Downtown Revitalization	\$ 371,084	Property conveyance to City of Santa Clara	CLP-1	Yes
13	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway	\$ 2,667,848	Property conveyance to City of Santa Clara	Land-1	Yes
14	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway Irvine Project-Welland Migration	\$ 199,411	Property conveyance to City of Santa Clara	Land-1	Yes
15	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway Irvine Project-Yuba Buena Owl Mill	\$ 618,432	Property conveyance to City of Santa Clara	Land-1	Yes
16	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway Irvine Project-Landfill Court Wall	\$ 890,000	Property conveyance to City of Santa Clara	Land-1	Yes
17	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway Irvine Project-Yuba Buena Why site Mtl	\$ 3,736,423	Property conveyance to City of Santa Clara	Land-1	Yes
18	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway Irvine Project-Golf Course Perimeter Drainage	\$ 682,280	Property conveyance to City of Santa Clara	Land-1	Yes
19	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway Irvine Project-Welland Migration	\$ 5,360,318	Property conveyance to City of Santa Clara	Land-1	Yes
20	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: SC Gateway Irvine Project-Yuba Buena Site Development	\$ 648,597	Property conveyance to City of Santa Clara	Land-1	Yes
21	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: Overhill junction @Fuel site	\$ 36,000	Property conveyance to City of Santa Clara	Land-14	Yes
22	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: San Tomas Aquino Creek Trail	\$ 18,994	Property conveyance to City of Santa Clara	Land-14	Yes
23	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: Lafayette St. Landscaping	\$ -			Yes
24	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land: San Tomas Aquino Creek Trail Cab	\$ -			Yes
25	March 8, 2011	Bayshore North Redevelopment	City Capital Projects	Cash	\$ 4,773,315	Transfers to City Capital Projects per cooperation agreement between the Agency and the City.	1a	Yes
26	March 8, 2011	Bayshore North Redevelopment	City Capital Projects	Cash - Bond Funded Construction	\$ 61,275,759	Transfers to City Capital Projects per cooperation agreement between the Agency and the City.	1a	Yes
27	June 30, 2011	Debt Service	City Capital Projects	Cash with Fiscal Agent	\$ 25,000,000	Transfer of bond proceeds per the cooperation agreement between the Agency and the City.	1b	Yes
28	June 30, 2011	Debt Service	City Capital Projects	Cash	\$ 106,419	Transfers to City Capital Projects per cooperation agreement between the Agency and the City.	1c	Yes
29	March 8, 2011	University Redevelopment	City Capital Projects	Cash	\$ 3,656,177	Transfers to City Capital Projects per cooperation agreement between the Agency and the City.	2a	Yes
30	March 8, 2011	University Redevelopment	City Capital Projects	Cash	\$ 99,170	Transfers to City Capital Projects per cooperation agreement between the Agency and the City.	2b	Yes
31	July 2, 2011	Debt Service	City Capital Projects	Cash	\$ 770,000	Transfers to City Capital Projects per cooperation agreement between the Agency and the City.	7a	Yes
32	Dec 31, 2011	Debt Service	City Capital Projects	Cash	\$ 2,067,738	To establish bond reserve funds pursuant to a fiscal agent error	7b	Yes
33	Jan 31, 2012	Debt Service	City Capital Projects	Cash	\$ 315,800	To establish bond reserve funds pursuant to a fiscal agent error	8	Yes
34	Pror to Jan 31, 2012	Redevelopment Agency	City General Fund	Lease Revenue - Cash	\$ 8,372,502	This transfer was used to fund a project (#9064 Downtown Revitalization) as approved in the FY11-12 budget. This project is funded from RDA Debt Service and is being paid out of the Capital Projects Fund (#938). It was approved in the Cooperative Agreement.		Yes
				Subtotal	\$ 219,926,450	Leases revenues under the 2005 Cooperative agreement were retained by the City		Yes

No.	Date	Transfer From	Transfer To	Item Transferred	Amount Transferred	Stated Purpose	Section 4 Reference	To be reversed?
To Housing								
35	Prior to June 31, 2012	Debt Service (941)	SC Housing Authority	Cash	\$ 933,257	Transfer per cooperation agreement between the Agency and the SC Housing Authority; four months of 10% set aside of tax increment revenue for the Bayshore North Project Area.	5a	Yes
36	Prior to June 31, 2012	Special Revenue Housing	SC Housing Authority	Cash	\$ 1,910,223	Transfer per cooperation agreement between the Agency and the SC Housing Authority; four months of 20% set aside of tax increment revenue.	5b	Yes
37	March 8, 2011	Special Revenue Housing	SC Housing Authority	Cash	\$ 58,144,435	Transfer per assignment and assumption agreement between the City, Agency and the SC Housing Authority.	4, Note 1	Yes
38	March 8, 2011	Special Revenue Housing	SC Housing Authority	Unrealized Gain	\$ 1,100,604	Transfer per assignment and assumption agreement between the City, Agency and the SC Housing Authority.	4	Yes
39	March 8, 2011	Special Revenue Housing	SC Housing Authority	Accr. Rec. Accrued Interest-Bank	\$ 69,815	Transfer per assignment and assumption agreement between the City, Agency and the SC Housing Authority.	4	Yes
40	March 8, 2011	Special Revenue Housing	SC Housing Authority	Loans Receivable - Conditional	\$ 68,842,937	Transfer per assignment and assumption agreement between the City, Agency and the SC Housing Authority.	4	No
41	March 8, 2011	Special Revenue Housing	City of Santa Clara	Land Held for Redevelopment	\$ 1,703,500	Transfer per assignment and assumption agreement between the City, Agency and the SC Housing Authority.	4 & Land-9	Nh
42	March 8, 2011	Special Revenue Housing	City of Santa Clara	Land Held for Redevelopment	\$ 5,600,270	Transfer per assignment and assumption agreement between the City, Agency and the SC Housing Authority.	4 & Land-10	No
43	Jan 31, 2012	Debt Service	Housing Authority	Cash	\$ 3,085,698	This was a transfer of housing set aside money for tax increments collected from July 1, 2011 through January 31, 2012. According to H & S code 34103 (c) no housing set aside was allowed for this period. The City subsequently reversed this transfer in the spring of 2012.	9	Yes
44	March 8, 2011	Bayshore North Redevelopment	City of Santa Clara	Land/Studioem Pacific (Shelter Housing)	\$ 1,479,897	Property conveyance to City of Santa Clara	Land-11	No
				Subtotal	\$ 142,671,236			
To Stadium Authority JPA								
45	March 8, 2011	Bayshore North Redevelopment	Stadium Authority Capital Project	Cash	\$ 5,600,000	Transfer per the cooperation agreement between the Agency and the Stadium Authority.	3a	Yes
46	June 30, 2011	Debt Service	Stadium Authority Capital Project	Cash with Fiscal Agent	\$ 2,697,231	Transfer per the cooperation agreement between the Agency and the Stadium Authority.	3b	Yes
				Subtotal	\$ 8,297,231			
To City-SOSA								
47	March 8, 2011	Santa Clara Redevelopment Agency	City of Santa Clara	City of Santa Clara Fairway Glen Apartments	TBD		Other-1	Yes
				Subtotal	-			
				Total	\$ 370,924,977			

Note 1 - Additional details on Section 3, Item 6 and Narrative Section 8 - Authorized Appropriations Transferred.

SCHEDULE 3

City of Santa Clara Redevelopment Agency
 Establishment of Liabilities at 1/31/12
 County of Santa Clara Auditor Controller
 (Per AB XI - 26 Section 34182)

Item No.	Project Name of Debt Obligation	Total Debt Obligations per Final ROPS for period of Jan - June 2012 (1/31/2012)		Adjustments		Reference	Established Per Auditor/Controller 1/31/2012
		Increases	Decreases	Increases	Decreases		
Section 1: Debt Obligations							
1	1999 Tax Allocation Bonds Series A	\$ 47,788,488	\$ -	\$ 854,431	\$ -	Section 6, Item 1	\$ 46,934,057
2	1999 Tax Allocation Bonds Series B	\$ 18,613,238	\$ -	\$ 412,566	\$ -	Section 6, Item 2	\$ 18,200,672
3	2002 Tax Allocation Refunding Bonds	\$ 17,948,600	\$ -	\$ 407,138	\$ -	Section 6, Item 3	\$ 17,541,462
4	2003 Tax Allocation Bonds	\$ 62,282,000	\$ -	\$ -	\$ -	Section 6, Item 4	\$ 62,282,000
5	2011 Tax Allocation Bonds	\$ 63,850,272	\$ -	\$ 475,141	\$ -	Section 6, Item 5	\$ 63,375,131
6	2002 Series B COPS (Agency Share)	\$ 1,010,524	\$ -	\$ 1,010,524	\$ -	Section 6, Item 6	\$ -
		\$ 211,493,121	\$ -	\$ 3,159,800	\$ -		\$ 208,333,321
Section 2: Contractual Obligations							
7	Cooperation Agreement - Stadium Authority	\$ 30,249,620	\$ -	\$ -	\$ 30,249,620	Section 6, Item 7	\$ -
8	Land Lease - Agency/City - Parking Lease	\$ -	\$ -	\$ -	\$ 30,249,620	Section 6, Item 8	\$ -
		\$ 30,249,620	\$ -	\$ -	\$ 30,249,620		\$ -
Section 3: Administrative Obligations							
9-10	Administrative Cost Allowance	\$ 518,448	\$ -	\$ -	\$ -	Section 6 Item 9-10	\$ 518,448
		\$ 518,448	\$ -	\$ -	\$ -		\$ 518,448
Section 4: Enforceable Obligations Not Listed on the ROPS - For future ROPS							
11	Section 7 - Transfers to City Capital Project Fund	\$ -	\$ 4,546,145	\$ -	\$ -	Section 7	\$ 4,546,145
12	Section 8 - Housing Appropriations Transferred	\$ -	\$ 15,544,275	\$ -	\$ -	Section 8	\$ 15,544,275
		\$ -	\$ 20,090,420	\$ -	\$ -		\$ 20,090,420
	Total Liabilities	\$ 242,761,189	\$ 20,090,420	\$ 33,409,420	\$ -		\$ 228,942,189
Section 5: City Obligations That May Be Deemed Enforceable Upon Finding of Completion and Oversight Board Approval (Adjusted from Origination to LAIF)							
13	Promissory Note for Housing	\$ 5,106,663	\$ -	\$ 531,277	\$ -		\$ 4,575,386
14	Santa Clara Gateway Loan Overpayment*	\$ 76,690,872	\$ -	\$ 85,142,215	\$ -	Section 5	\$ (8,451,343)
15	Loan Agreement Downtown Revitalization	\$ 6,545,791	\$ -	\$ 4,695,492	\$ -		\$ 1,850,299
	Total Obligations That May Be Deemed Enforceable	\$ 88,343,326	\$ -	\$ 90,368,984	\$ -		\$ (2,025,658)

* This item is listed as a receivable in Schedule 1 - Establishment of Assets. It is being listed in Schedule 2 - Establishment of Liabilities as a potential offset to other City loans that may be reimbursed.

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City of Santa Clara Redevelopment Agency

Table of Real Property
 County of Santa Clara Auditor Controller
 (Per ABX1 - 26 Section 34182)

Land Ref #	APN	Description	Book Value	Lease Revenues	Owed By City
			Annual for 2011	Annual for 2011	03/08/11 - 01/31/12
Commercial					
Land-1	104-01-100	Gateway - Parcel 2 Only	\$ 14,793,309	\$ 3,639,002	\$ 3,032,502
Land-2	104-55-016; 104-55-017; 104-43-025	Conven. Center - Ballroom & Pkg	\$ 7,162,936	\$ 339,000	\$ -
Land-3	104-55-013	Technart Meeting Ctr.	(See Land-2)	\$ 1,100,000	\$ -
Land-4	104-55-005; 104-55-012	Hyatt Hotel - Ground Lease	(See Land-2)	\$ 1,100,000	\$ -
Land-5	104-43-054	Hilton Hotel - Ground Lease	\$ 8,860,000	\$ 400,000	\$ -
Land-6	104-42-014; 104-42-019	Great America - Theme Park	\$ 73,532,992	\$ 5,300,000	\$ 5,300,000
Land-6a	104-43-052	- Parking Leashold Interest	\$ -	\$ 134,694	\$ -
Land-7	104-43-051	Great America Theme Park - Parking	\$ 3,185,000	\$ -	\$ -
Total Commercial Land:			\$ 107,534,237	\$ 12,012,696	\$ 8,332,502
Housing					
			Annual for 2011	Annual for 2011	Owed By City
Land-9	101-15-033	Land Held for Future Aff. Housing (Habitat)	\$ 1,703,500	\$ -	\$ -
Land-10	224-37-068	Land Held for Future Aff. Housing	\$ 5,400,270	\$ -	\$ -
Land-11	230-06-053	Shelter Housing	\$ 1,479,897	\$ -	\$ -
Total Housing Land:			\$ 8,583,667	\$ -	\$ -
Public Purpose					
			Annual for 2011	Annual for 2011	Owed By City
Land-8	097-08-053	Martinson Child Care Center	\$ 1,444,589	\$ -	\$ -
Land-12	097-08-089	Northside Branch Library	\$ 463,375	\$ -	\$ -
Land-13		CIP Walsh Ave Sewer	\$ 3,711,301	\$ -	\$ -
Land-14		Fuel Site and Creek Trail	\$ 54,984	\$ -	\$ -
CIP-1		Downtown Revitalization	\$ 371,064	\$ -	\$ -
Total Public Purpose Land:			\$ 6,045,313	\$ -	\$ -
Other					
			Annual for 2011	Annual for 2011	Owed By City
Other-1	097-05-105; 097-05-097; 097-83-001	SOSA Leases/Subleases	N/A	\$ 1,361,000	\$ -
GRAND TOTAL			\$ 122,163,217	\$ 13,373,696	\$ 8,332,502

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CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

Section 1: Introduction and Synopsis

This audit was conducted by the County of Santa Clara Auditor-Controller pursuant to ABX1 26 and AB 1484, California Health and Safety Code Section 34182 (a)(1) and (2). The code requires the Auditor-Controller to conduct an “agreed-upon procedures audit,” the purpose of which “shall be to establish each redevelopment agency’s assets and liabilities, to document and determine each redevelopment agency’s pass-through payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency...” The assets and liabilities are shown on Schedules 1 and 3 as of January 31, 2012.

Assets and Liabilities as of January 31, 2012

Total Assets – Housing Successor Agency	\$ 77,426,604	Per Schedule 1
Total Assets – Successor Agency	\$319,873,479	Per Schedule 1
Total Liabilities	\$228,942,189	Per Schedule 3

These assets and liabilities are detailed in the remainder of this report.

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CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

**Section 2: Assumptions and Disclosures Affecting this
Report's Findings and Conclusions**

Assumptions

Assumptions in this report include:

- This audit was performed pursuant to the provisions of the Community Redevelopment Law, Health and Safety Code section 33000 *et seq.*, as amended by Assembly Bill X1 26 ("ABX1 26") (effective June 28, 2011) and Assembly Bill 1484 ("AB 1484") (effective June 27, 2012). AB X1 26 and AB 1484 are collectively referred to as the "Redevelopment Dissolution Law." Because the Redevelopment Dissolution Law is relatively new and there are few reported cases interpreting its provisions, there are differences of opinion regarding how it should be interpreted and applied. This is particularly true when evaluating the complex and somewhat novel transactions involved in this audit. The County Auditor-Controller consulted with County Counsel when issues of legal interpretation and application arose during the course of this audit, and this audit is based on what the County Auditor-Controller believes complies with the letter and intent of the Redevelopment Dissolution Law.
- The FY 2009-2010 Audited Financial Statements of the Santa Clara Redevelopment Agency are accepted as accurate.
- Except where specifically noted in this report, the FY 2010-2011 audited financial statements and January 31, 2012 trial balances of the Santa Clara Redevelopment Agency are accepted as accurate.
- Except where specifically noted in this report, the resolutions and attachments provided by City of Santa Clara staff are accepted as accurate.
- Except where specifically noted, records from the City's financial system and other records such as contracts, and the oral explanations of City staff, are accepted as accurate.
- Given the limitations of available records to determine appropriate expenditures at critical dates such as August 16, 2011, we have attempted to document these, at best we can, through available records from the City, such as comparing contract balances at available dates.
- That the dates and assumptions on the following Santa Clara RDA Dissolution Timeline are correct.

Transfer Timeline

The following Santa Clara RDA Dissolution Timeline is key to understanding the reasons for major disallowance of City expenditures against transferred assets. As the timeline shows:

- On February 8 and 22, 2011, cooperation agreements were entered to attempt to transfer appropriations and project responsibility from the RDA to the City.
- On or about March 8, 2011, virtually all RDA assets were transferred to the City, the newly formed City Housing Authority, or the newly-formed Stadium Authority JPA.
- On August 16, 2011, the City approved an Enforceable Obligation Payment Schedule (EOPS) but did not list any individual contracts, only bond debt and the City Cooperation Agreements. Consequently, the City, the Housing Authority, and the Stadium Authority lacked authorization to make payments after August 15, 2011, other than for the listed bond debt.

Basis of this Report and Disclosures

Assets:

The reader should be aware that in February and March 2011, the City Council—acting on behalf of both the City and the Redevelopment Agency—transferred substantially all assets and contractual liabilities of the RDA to the City, the newly-formed City Housing Authority, or the newly-formed Stadium Authority JPA. As defined in the dissolution trailer bill, AB 1484, both the Housing Authority and the Stadium Authority, as component units of the City (and entities controlled by the City Council), are defined as the City for the purpose of RDA dissolution. (Health and Safety Code § 34167.10.) In addition, the Agency, through Assignment and Assumption Agreements, attempted to transfer future rents to both the City and to the Sports and Open Space Authority (SOSA), another component unit of the City controlled by the City Council and considered part of the City under RDA Dissolution Law beyond the February 1, 2012, date that Pre-2011 cooperation agreements expire.

Our findings are that these transfers were not legally permitted under ABX1 26 or AB 1484 and that all assets and certain lease revenues as specified in sections 4 and 5 must be returned to the Successor Agency. Accordingly, all of these transferred assets are shown on Schedule 1 as adjustments to Successor Agency assets as of January 31, 2012, the date of Redevelopment Agency Dissolution.

In addition to these asset transfers, on February 8 and 22, 2011, the City also attempted to transfer appropriation authority for existing and proposed projects to either the City or the newly-formed Housing Authority through cooperative agreements. These agreements were declared to not be enforceable obligations under Health and Safety Code (H&S) sections 34171(d)(2) and 34178(a) effective February 1, 2012. In addition, these agreements are themselves asset transfers subject to claw back per H&S § 34167.5. Moreover, per H&S § 34167.5, these agreements were deemed void and not in furtherance of the Community Redevelopment Law. As the attached Santa Clara RDA Dissolution Timeline shows, the City approved the EOPS on August 16, 2011. However, on the EOPS and subsequent Recognized Obligation Payment Schedules (ROPS), the City attempted to list these unenforceable cooperative agreements with

both the City and the Housing Authority as authorization for contract payments on projects to individual contractors made by the City. H&S § 34169(g) requires that specific payments must be listed on the EOPS, and H&S § 34167(h) bars non-bond payments not listed on EOPS. Absent the listing of specific payments, there was no authority to make any payments after August 16, 2011, against RDA funds. In addition, the City continued to enter into new agreements after June 27, 2011, the date a freeze was placed on entering new agreements.

While many other RDAs in the county and state-wide transferred redevelopment assets to their host city, for the most part they sequestered these assets and did not permit them to be spent. This was done in the event that they would have to honor an order for the return of these assets as reflected in the mandatory claw-back language in H&S § 34167.5. However, the City of Santa Clara continued to pay contractors with no authority and entered new agreements after the freeze date, the most notable being for the Bayshore Library Project.

The consequences of this are severe to the City. The law did not permit any new contracts or payments on pre-existing contracts unless authorized on the EOPS or ROPS. But the City only authorized bond payments on those schedules. The City is therefore responsible for those unauthorized payments and for restoring transferred funds to the Successor Agency. This is particularly critical in the case of the Housing Authority, where the City transferred \$59,782,871 in unencumbered housing cash to the Housing Authority on March 8, 2011. The City had no authorized housing payments on their EOPS or ROPS for payments after August 15, 2011. The law requires this housing cash to be returned to the Successor Agency for remittance to the Auditor-Controller for distribution to local taxing entities.

Liabilities:

The attempted transfer of appropriations authority through invalid cooperation agreements, and the fact that many of the underlying contractual agreements were entered into solely by the City, as opposed to the RDA, also has severe consequences to the City. As narrative sections 7 and 8 indicate, only minor portions of transferred appropriations were for valid RDA agreements (i.e. in the name of the RDA, entered into before June 28, 2011). The majority of the agreements were for City contracts which would have been disallowed on the ROPS in any case, because they are not RDA liabilities. However, where the City can demonstrate that City agreements were entered prior to January 1, 2011, and were clearly to be for RDA projects funded from RDA resources, we believe that such items may qualify as permissible on future ROPS, subject to Oversight Board and State Department of Finance (DOF) approval.

Further, the EOPS and subsequent Oversight Board-approved ROPS only listed bond debt and unenforceable cooperative agreements with the City. We believe that valid RDA agreements paid after the cash transfer on March 8, 2011 and before the date of enactment of the EOPS (August 16, 2011) would be permitted as RDA payments and may be allowed as offsets to the return of transferred cash. Unfortunately, in most cases, based on City records available we could not document payments made between those dates.

The aggregate of these items are shown on Schedule 3, Section 4 as liabilities as of January 31, 2012, but since they were not listed on the EOPS or ROPS they currently are not payable obligations. The City will have to work with DOF to determine if there is a solution to this conundrum. In 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. However, many of the City agreements detailed in sections 7 and 8 are not enforceable obligations, cannot be listed on future ROPS, are not allowable offsets, and are the financial responsibility of the City.

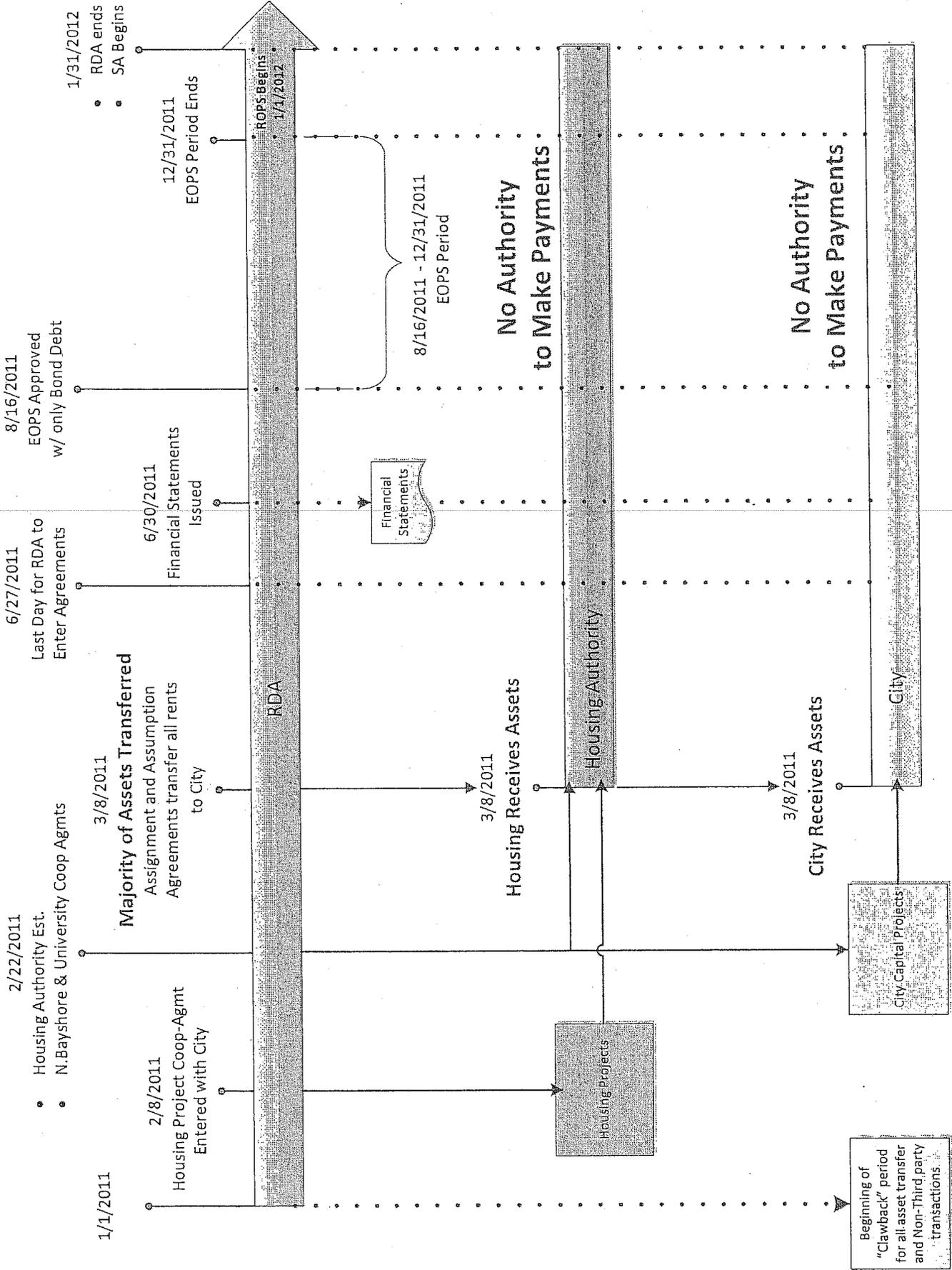
Focus of this Agreed Upon Procedures Review:

Because the City transferred virtually all RDA assets to the City or to City component units (as defined in AB 1484) on or about March 8, 2011, the remaining assets in the RDA were only those accumulated after March 8, 2011. Consequently, to meet the mandate of establishing assets, the major focus of this review was primarily on identifying transferred assets that must be returned to the Successor Agency. As section 4 details, these transfers and the fact that the City did not clearly establish asset balances when the transfers were made, complicated the review. This involved reconstructing the balances of what assets would have been available to the Successor Agency had unallowable transfers not occurred.

Section 5 details the entire Gateway property transfer and the overstated loan to the City that resulted from this transfer and in particular from the 2005 Amendment No.1 to the 2000 Cooperative Agreement, which was not in accordance with the Community Redevelopment Law.

Lastly, in sections 7 and 8 we have attempted to detail the valid Agency obligations that were transferred to the City through the attempted transfer of appropriations authority and what portion of these appropriations, if any, represent enforceable obligations and what portion, if any, would be an allowable offset to the transferred cash that must be returned to the Successor Agency.

City of Santa Clara Clara RDA Dissolution Timeline



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CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

Section 3: Assets

General:

As previously described, the majority of asset verification work involved reviewing asset transfers to determine which assets were unallowable transfers. The remainder of this section will detail both the assets that exist and the assets that need to be transferred back to the Successor Agency. Assets are detailed in the order in which they are presented on Schedule 1.

Assets Transferable to the Housing Authority

Item No.	Description	Amount
1	Loans Receivable	\$ 68,842,937

These loans were transferred to the Housing Authority and are permitted for transfer to successor housing agencies under H&S § 34176(e)(3). To the extent that these loans were listed on the Housing Asset Transfer List as being made before June 27, 2011, the transfer has been allowed by DOF. However, DOF has disallowed all loans that the City Housing Authority has made after June 27, 2011. To the extent that such loans were made with unencumbered housing cash, the City will have to return this cash and bear the cost of those loans issued in violation of the freeze provisions (Part 1.8).

Item No.	Description	Amount
2	Land	\$ 8,583,667

This represented three properties detailed in the transfer section as Land-9, Land-10 and Land-11. These properties were detailed on the Housing Asset Transfer List and were not challenged by DOF on the Housing Asset Transfer list. These have been verified as housing assets.

Assets Transferable to the Successor Agency

Item No.	Description	Amount
3.a	Cash and Investments - Unrestricted	\$ 25,735,557
3.b	Unrealized Gain - Unrestricted	\$ 203,364
3.c	Cash - Lease Revenues	\$ 8,332,502
Total Cash		\$ 34,271,423

This represents both cash that was available on January 31, 2012 and cash that must be transferred back to the Successor Agency, which is detailed in Section 4 (Transfers). The balance as it should be on January 31, 2012 is determined as follows:

Cash and Investments – Unrestricted				
Date	Description	Amount	Reference	Note
Unencumbered Cash				
1/31/2012	Cash on Hand	\$ 5,281,220		[1]
3/8/2011	Unrealized Gain - Unrestricted	\$ 203,364	Section 4, Item 4	
Transfers to City				
3/8/2011	Cash - Bayshore North	\$ 4,773,315	Section 4, Item 1a	
3/8/2011	Cash - City Capital Projects	\$ 106,419	Section 4, Item 1c	
3/8/2011	Cash - City Capital Projects	\$ 3,636,177	Section 4, Item 2a	
3/8/2011	Cash - City Capital Projects	\$ 99,170	Section 4, Item 2b	
7/2/2011	Debt Services - Fund 941	\$ 770,000	Section 4, Item 7a	
12/31/2011	Debt Services - Fund 941	\$ 2,067,758	Section 4, Item 7b	
1/31/2012	Debt Services - Fund 942	\$ 315,800	Section 4, Items 8	
Various	Lease Revenues received by City	\$ 8,332,502	Land Summary	
Transfer to Housing Authority				
Various	Debt Service Fund	\$ 3,085,698	Section 4, Item 9	The transfer was returned after 1/31/2012.
Transfer to Stadium Authority				
Various	Debt Service Fund	\$ 5,600,000	Section 4, Item 3a	
Total		\$ 34,271,423		
[1]	<p>Cash on Hand: This was comprised of Tax Increment paid to the RDA by the County after March 8, 2011, less payments for debt service and other transfers detailed in the transfer Section 4. This cash was used for subsequent debt payments due during the January 1 through June 30, 2012, first ROPS period. As the City transferred all cash on March 8, 2011, it did not have sufficient cash reserves remaining to make subsequent debt service payments during the first ROPS period. The City had to transfer money back to the Successor Agency from the Housing Authority. Part of the transferred amount was treated as a "loan," but for this report it is not treated as an offset to cash to be returned since the transfer back occurred after January 31, 2012.</p>			

Item No.	Description	Amount
4	Cash - Restricted Bond Funds	\$ 61,275,759

On March 8, 2011, unspent proceeds of \$62,756,160 from previous bonds issued in 1999 and 2003 for the Bayshore North Redevelopment Project Area were transferred to the City. The purpose of the bonds were for construction of various projects detailed in Section 7, which include a 2600-space parking garage in the Great America theme park area, a library, the Convention Center Ballroom, replacement of a fire station, the creek side trail, and other uses permitted by law. As previously discussed, to the extent that the RDA issued contracts or entered agreements on or before June 27, 2011, and made payments on or before August 16, 2011, permitted expenditures may have been allowed as offsets to the transferred cash; however, payments during this period could not be determined from City records. In addition, payments for City obligations, which include the majority of the library project, were not allowed as offsets since these are City responsibilities. One allowed credit to restricted cash was the accounts payable that were transferred on March 8 2011, of \$1,480,401 detailed in Section 3, Item 1.

Should the City receive a finding of completion from the DOF, the Oversight Board may allow unspent pre-2011 bond proceeds to be spent for their original intended purpose. Alternatively, bond proceeds may be used for redemption of the outstanding bonds as permitted in the bond covenants.

Item No.	Description	Amount
5	Cash - Housing Set-Aside	\$ 2,844,080

This was the transfer of four months of 20% and 10% housing set aside of tax increment received in the spring of 2011. See Section 4, Item 5 for details.

Item No.	Description	Amount
6	Cash - Housing Unrestricted	\$ 58,144,435

The March 8, 2011 asset transfer included the transfer of \$59,782,871 in unencumbered housing cash to the newly-formed Housing Authority. ABX1 26 and AB 1484 are explicit that unencumbered housing cash at January 31, 2012, must remain with the Successor Agency and be subsequently distributed by the county auditor-controller for payment to local taxing entities. Section 8 details allowed offsets to the transferred cash in the amount of \$1,291,773. As previously discussed, to the extent that the RDA issued housing contracts or entered agreements on or before June 27, 2011, and made payments on or before August 16, 2011, permitted expenditures have been allowed as offsets to the transferred cash. However, payments for City obligations, which include the majority of the projects detailed in Section 8, were not allowed as offsets since these are City liabilities. In addition, accounts payable transferred on March 8, 2011, of \$346,663 as detailed in Section 4, Item 4, were allowed as offsets to cash.

Item No.	Description	Amount
7a	Housing - Unrealized Gain (Loss) - Unrestricted	\$ 1,100,604
7b	Housing - Accrued Interest Receivable	\$ 69,815
Total Cash		\$ 1,170,419

This was the accrued interest transferred on March 8, 2011, and is owed back to the Successor Agency. In addition, the City will need to compute all interest on transferred funds that it must return from the date of transfer or receipt through the date of settlement, including interest on transferred rents.

Item No.	Description	Amount
8	Cash - Debt Service Reserves	\$ 40,136,440

Beginning balances represented debt service reserve funds with fiscal agents totaling \$12,439,209. This represented reserves for:

2002 Tax Allocation Bond (TAB) issue	\$7,227,449
2003 TAB	\$2,443,916
2011 TAB	\$2,767,844

In May 2011, the RDA sold a Tax Allocation Bond in the amount of \$31,411,295. Of the net proceeds of \$27,697,231, \$25,000,000 was transferred to the City (see Section 4, item 1b) and \$2,697,231 was transferred to the Stadium Authority (see Section 4, item 3b). The purpose of these bonds was to finance certain redevelopment activities in the Bayshore North Project Area.

AB 1484 only permits the expenditure of proceeds of bonds sold before December 31, 2010, upon receiving a finding of completion from DOF. Absent authority to spend the proceeds of bonds sold after December 31, 2010, the unspent proceeds must redeem the bonds themselves. Accordingly, these proceeds must be returned to the fiscal agent to be used for debt defeasance.

Item No.	Description	Amount
9	Due from City of Santa Clara – Loan Overpayment	\$ 8,451,343

This represents the recalculation of the Gateway Loan (also known as the Yerba Buena Loan) which is fully described in Section 5 (Gateway Property Transfer).

Item No.	Description	Amount
10	Land	\$ 106,600,874

All RDA land was transferred on March 8, 2011 to the City and the Housing Authority. This is fully described in Section 4. All land transferred to the City must be returned to the

Successor Agency, along with all rents subsequently collected by the City and interest on the rents to the date of settlement.

Item No.	Description	Amount
11	Construction in Progress	\$ 6,978,676

All RDA Construction in progress was transferred on March 8, 2011, to the City and the Housing Authority. This is fully described in Section 4. All construction in progress transferred to the City must be returned to the Successor Agency.

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CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

Section 4: Transfers

Beginning in early-2011, the City and RDA transferred the majority of Agency assets out of the Agency. These transfers were done in various stages as can be seen on the Santa Clara RDA Dissolution Timeline (see page 7). Specific actions were as follows:

- February 8, 2011 - a Cooperation Agreement was executed between the City and the RDA to transfer housing-related projects totaling \$58,829,470. These projects are detailed in Section 8.
- February 22, 2011 - the City established a Housing Authority whose governing board consisted of the City Council members. The City and the Redevelopment Agency also entered into a cooperation agreement transferring non-housing projects from the RDA to the City, totaling \$ 96,181,927. These projects are detailed in Section 7.
- March 8, 2011 - the majority of assets in the RDA were transferred to either the City, to the newly formed Housing Authority, or to the newly-formed Stadium Authority.
- March 8, 2011 - Assignment and Assumption Agreements were adopted by resolutions assigning the Agency's interest in all leases to the City or to the City Sports and Open Space Authority (SOSA).
- Subsequent to March 8, 2011 - other transfers were made to the three agencies (City, Housing Authority, Stadium Authority) primarily to transfer subsequent tax increment received and the proceeds from the May 2011 bond issuance.

A summary of all asset transfers follows:

SUMMARY OF TRANSFERS				
	CITY	HOUSING AUTHORITY	STADIUM AUTHORITY	TOTAL
ASSETS				
Cash & Equivalent - Unrestricted	\$ 11,768,639	\$ 66,883,068	\$ 5,600,000	\$ 84,251,707
Cash - Bond Proceeds - Restricted	\$ 86,275,759		\$ 2,697,231	\$ 88,972,990
Loans and Receivable		\$ 68,842,937		\$ 68,842,937
Land	\$ 113,579,550	\$ 8,583,667		\$122,163,217
Sub-Total Assets	\$ 211,623,948	\$144,309,672	\$ 8,297,231	\$364,230,851
LEASE REVENUES				
Commercial Land	\$ 8,332,502			\$ 8,332,502
Sub-Total Lease Revenues	\$ 8,332,502	\$ -	\$ -	\$ 8,332,502
TOTAL	\$219,956,450	\$144,309,672	\$ 8,297,231	\$372,563,353
ALLOWABLE		\$ 77,426,604		\$ 77,426,604
UNALLOWABLE	\$219,956,450	\$ 66,883,068	\$ 8,297,231	\$295,136,749

It should be noted that the balances of asset transfers on March 8, 2011, will match neither the February 8, 2011 housing project transfers nor the February 22, 2011, general project transfers. The March 8, 2011 transfers were for actual assets (i.e. cash and property etc.) while the cooperation agreements were attempting to transfer appropriation authority for the various projects involved. It should also be noted that the above list details an important transferred asset: rents derived from certain properties that are an integral part of asset transfers and will be explained in the section on land transfers.

Stated Reason for Transfers

The City was explicit in their staff reports and Council presentations that these transfers were made for the express purpose of evading the imminent redevelopment dissolution law. The initial cover sheet for the staff report for the March 8, 2011, meeting was entitled: "Subject: Actions to Protect Redevelopment Agency Assets." Furthermore, the "Economic/Fiscal Impact" section of the staff report regarding the transfer of the capital projects stated:

This action will protect more than \$100 million of active Redevelopment Agency projects from possible termination by the State of California action. Without this action the implementation of these projects would be subject to the approval of the oversight board of the successor agency and may be at risk.

In addition, a PowerPoint presentation delivered to the Council that day described the full breadth of actions to "Protect Redevelopment Agency Assets," specifically referencing a desire to avoid decision-making by an "oversight board." After that meeting, a city official was quoted in the Sacramento Bee saying: "We have no funds now in our redevelopment coffers that can be taken."

Furthermore, the Assignment and Assumption Agreements, which assigned the Agency's interest in leases and related rents, were for the express purpose of assuring that these rents went to the City's General Fund. The March 8, 2011, staff report stated: "Currently under a cooperation agreement between the Redevelopment Agency and the City, the annual lease payments from these properties go the City and are an important source of revenue for the City's General Fund."

Legal Restrictions

Both the February 22, 2011, and March 8, 2011, agreements were between the former Redevelopment Agency and the City of Santa Clara. H&S § 34167.5 provides that such asset transfers are "deemed not to be in furtherance of the Community Redevelopment Law and [are] thereby unauthorized," and the State Controller is *required* to order these assets returned to the Successor Agency. These agreements are also invalid after January 31, 2012 pursuant to H&S Code section 34178(a), which states:

Commencing on the operative date of this part, agreements, contracts, or arrangements between the city that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency

Furthermore, H&S Code section 34171(d)(2), which defines “enforceable obligations,” states that after January 31, 2012, such obligations do not include contracts between a redevelopment agency and the city that created it, with very limited exceptions that are inapplicable here.

Challenges Posed and Approach Used To Complete Agreed-Upon Procedures (AUPs)

While the balance sheet assets and liabilities for the Successor Agency as of February 1, 2012, are sparse and include few assets left in the RDA funds after the transfers to the City and City-controlled Housing Authority and Stadium Authority, this does not mean that the situation is simple. In fact, these transfers made the AUP review process more difficult and complex. Many cities that transferred cash and other assets out of their RDAs sequestered these assets and preserved them for the contingency that they might have to honor a demand for their return. However, City of Santa Clara viewed itself as having authority to transfer both cash and other assets and program obligations simultaneously, and to continue spending against those programs and also enter into new contractual obligations on behalf of the City using RDA funds.

After June 27, 2011, RDAs were prohibited from creating new enforceable obligations. Between June 28, 2011 and adoption of the first EOPS on August 16, 2011, payments could only be made toward enforceable obligations as defined in ABX1 26. The only authority that the RDA had to spend money after August 16, 2011, was pursuant to enforceable obligations established by RDAs as of June 27, 2011, and listed on the approved EOPS or a subsequently-adopted ROPS. Notwithstanding those requirements, the City of Santa Clara and its Housing Authority continued to incur new obligations and spend RDA money with no legal authority to do so (see Section 2 - RDA Dissolution Timeline).

The purpose of the agreed upon procedures audit (AUP) is to establish the RDA’s assets and liabilities and identify the RDA’s major transfers. The AUP does not include procedures for looking at remaining unspent assets transferred to another agency, especially when that other agency had no valid authority to expend RDA funds.

We have consulted with the State Controller’s Office and it has validated our approach, which is to require that all assets transferred by the RDA on March 8, 2011 or thereafter be returned at their value on the transfer date. There are two possible exceptions to this. First, valid RDA obligations (i.e., obligations entered by the RDA) that were entered on or before June 27, 2011, which were paid by August 16, 2011, were allowed as offsets to transferred cash. The second possible exception would be for non-cash housing assets that qualify under H&S Code sections 34176(e)(1)-(6), and which ultimately would have been allowed to be transferred to the Housing Authority. If these assets were subsequently reported on the Housing Asset Transfer Form and approved by DOF, then they would be permitted for transfer to the Housing Authority and are currently shown in Schedule 1 as assets transferrable to the Housing Successor Agency.

For any expenditure made after August 16, 2011, as explained in Section 2, the City had no legal authority to make payments against RDA funds that were not listed on the EOPS; the City is responsible for those payments and must restore those funds to the Successor Agency. In theory, the City could work with the DOF to determine if EOPS or ROPS could be amended to allow for

additional payment authorization for payments made after August 16, 2011, or placed on a future ROPS.

If allowed, these amended EOPS and ROPS may not, however, provide justification for any agreements or obligations unless they were entered into by the RDA (not the City or Housing Authority) on or before June 27, 2011; moreover, an amendment cannot be used to justify expenditures made after January 31, 2012 from unrestricted housing cash. Non-allowed expenditures will be pursued under the remedies authorized by ABX1 26 and AB 1484, including H&S Code section 34179.6(h)(1)(B), which provides:

The county auditor-controller and the [State Department of Finance] shall have the authority to demand the return of funds improperly spent or transferred to a private person or other private entity. If funds are not repaid within 60 days, they may be recovered through any lawful means of collection and are subject to a ten percent penalty plus interest at the rate charged for late personal income tax payment from the date the improper payment was made to the date the money is repaid.

City Methodology for Making Transfers

The City and RDA used several different methods for making transfers, which also added complexity to the AUP process. These will be briefly described:

- **Fund Balance Transfers:** In two major cases, the RDA funds were changed overnight on March 8, 2011. The first case was a transfer of funds from a RDA fund to a City or Housing Authority fund. Note 7 in the June 30, 2011 CAFR shows the actual fund balance transferred via this process as being a transfer of \$67,711,924 from the Special Revenue Housing fund to the newly-created Santa Clara Housing Authority. The second case was \$66,049,074 in fund balance being transferred from the Bayshore North Redevelopment Project Area to the Santa Clara City Capital Projects fund. In both cases, the City enacted these transfers by changing the entire fund from an RDA fund to a City fund, but unfortunately it did not prepare either a closing trial balance or financial statements to indicate actual asset balances transferred. Consequently, audit staff had to download financial data files from the City to recreate an actual balance sheet to determine the actual assets that were transferred as part of the fund balance transfers.
- **Transfers of Bond Funds:** Funds were transferred to the City Capital Projects funds and to the Stadium Authority from RDA debt service funds, but these transfers actually represent unspent bond proceeds.
- **Cash Transfers to City and Housing Authority:** Tax increment received subsequent to the March 8, 2011, was also transferred to City and to the Housing Authority.
- **University Redevelopment Asset Transfers:** Cash was transferred to the City Capital Projects funds from the University Redevelopment project area.
- **Land and Improvements:** All Agency land and improvements were transferred from the RDA to the City and the Housing Authority on March 8, 2011.

- **Rental Income on Land:** On March 8, 2011, the City, the RDA and the City-controlled Sports and Open Space Authority (SOSA) adopted resolutions assigning all Agency rents on transferred land to the City or to SOSA.
- **Cooperation Agreement Project Transfers:** These cooperation agreements attempted to transfer appropriation authority for the various projects involved from the RDA to the City. These included Bayshore North Redevelopment Area projects detailed in Section 7, and the Housing projects detailed in Section 8.

Key Findings

The remainder of this section will explain and document various transfers that are disallowed under ABX1 26 and/or AB 1484. We would like to highlight several key items due to their impact and materiality to the assets available to the Successor Agency:

- **Gateway - Parcel 2** - As described in Section 5, this transfer involved an overstatement of land value as a basis for a loan that allowed the City to transfer rental revenues from the Agency to the City General Fund for which the City was not entitled. Consequently, an Agency loan payable to the City was listed on the EOPS and first ROPS in the amount of \$88.9 million. In reality, the City was actually overpaid in the amount of \$8.5 million, and this amount is now listed on the Statement of Assets as an Agency receivable due from the City.
- **Transfer of Commercial Properties** - Commercial land and improvements with a nominal book value of \$107.5 million were transferred from the Agency to the City. (See Schedule 4). As explained in Section 5, these lands were transferred without consideration. These lands generate rental revenues of \$13.4 million annually, of which \$12 million goes to the City's General Fund and \$1.4 million to SOSA. As shown on Schedule 4, several of these rents were allowed to be transferred to the City via existing cooperative agreements, but certain rents totaling \$8.3 million are to be returned to the Successor Agency plus interest through the date of settlement. After January 31, 2012, all cooperation agreements are void and all subsequent rents received by the City must also be returned with interest.
- **Unencumbered Housing Cash** - Unencumbered housing cash and equivalents was transferred to the newly formed Housing Authority in the amount of \$62,258,925 after permitted offsets and must be returned to the Successor Agency to be remitted to the Auditor-Controller for distribution to local taxing entities.

Bayshore North Redevelopment Area and University Redevelopment Area Transfers to City

The following assets under the Bayshore North Redevelopment Project Area were transferred to the City on March 8, 2011, and thereafter pursuant to the February 8, 2011 Cooperation Agreement:

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
1	Bayshore North & University Redevelopment	City Capital Projects Funds	\$ 91,155,493

From	Bayshore North Redevelopment [1.a]	Debt Service Bayshore North Fund 941 [1.b]	Debt Service University Fund 942 [1.c]	TOTAL Transfers under Cooperative Agreements	Subject to Reversal?
Cash - Unencumbered	\$ 4,773,315		\$106,419	\$ 4,879,734	Yes
Cash - Bond Funds	\$ 62,756,160	\$ 25,000,000		\$ 87,756,160	Yes
Accounts Payable	\$ (1,141,686)			\$(1,141,686)	As offsets to Cash transfers
Others	\$ (338,715)			\$ (338,715)	
TOTAL	\$ 66,049,074	\$ 25,000,000	\$106,419	\$91,155,493	-

The June 30, 2011, Santa Clara Redevelopment Agency (RDA) Statement of Revenues, Expenditures, and Changes in Fund Balances, for the Government Funds displays this as an Other Financing Uses of "Coop Agreement (to) City of Santa Clara (Note 7A)." In Note 7A the reason given is "Transfers per the cooperation agreement between the Agency and the City." We are showing the liabilities above to reconcile to the fund balance transfer shown in the June 30, 2011 CAFR (Note 7). As these were paid by cash, they are being shown as offsets to the cash that must be restored of \$1,480,401. A brief description of the above follows:

1.a. Bayshore North Project Redevelopment \$66,049,074

As previously mentioned, this involved the City transferring the whole Bayshore North fund from an RDA fund to a City capital project fund by changing the ownership of the funds from the RDA to the City without developing a trial balance. We were able to recreate a trial balance by summarizing City transactions in a spreadsheet and reconciling the total to the amount reported in the June 30, 2011 Financial Statement. Based on this review, \$4,773,315 in unrestricted cash and \$62,756,160 in bond funds (less \$1,480,401 offsets for Accounts Payable and Others) needs to be returned to the Successor Agency.

1.b. Debt Service Bayshore North Fund 941 \$25,000,000

This is a transfer of Cash with Fiscal Agent, from Fund 941, Debt Service Bayshore North, to City Capital Projects.

We traced this transfer to the general ledger detail. This was part of a transfer of cash from General Ledger account 12063, Cash with Fiscal Agent, on June 30, 2011.

It should be noted that these were proceeds from the 2011 TAB, a debt issuance made after December 31, 2010. AB 1484 only permits the expenditure of proceeds of bonds sold before December 31, 2010, upon receiving a finding of completion from DOF. Absent authority to spend the proceeds of bonds sold after December 31, 2010, the unspent proceeds must redeem the bonds themselves. Accordingly, these proceeds must be returned to the fiscal agent to be used for debt defeasance.

1.c. Debt Service University Fund 942 \$106,419

This is a transfer of Cash from Fund 942, Debt Service University Fund, to City Capital Projects.

We traced this transfer to the general ledger detail. The transfer was made on June 30, 2011, for a total of \$106,419 from Fund 942 and must be returned as unencumbered cash.

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
2	University Project Redevelopment	Redevelopment Project Area CIP	\$ 3,735,347

Assets transferred constituted cash. A brief description of the above follows:

From	Debt Service University Fund 938	Debt Service University Fund 902	TOTAL Transfers under Cooperative Agreements	Subject to Reversal?
	[2.a]	[2.b]		
Cash - Unencumbered	\$ 3,636,177	\$ 99,170	\$ 3,735,347	Yes

The June 30, 2011 financial statement for the Santa Clara Redevelopment Agency reports a transfer out of the University Project Redevelopment Fund of \$3,735,347, while the June 30, 2011 financial statement for the City of Santa Clara includes this amount among \$69,685,251 transferred into the City's Redevelopment Project Area Capital Improvement Fund. (The additional amount is a transfer from the Bayshore North Project Redevelopment Fund, discussed previously in this section.) Note 2B to the City's financial statement reports that the Redevelopment Project Area CIP Fund "was created on March 8, 2011 to account for all capital assets that were transferred to the City per the Property Conveyance Agreement and Cooperation Agreements between the City and the Redevelopment Agency." Note 7A to the Redevelopment Agency financial statement lists the \$3,636,177 as "Transfers to City Capital Projects per cooperation agreement between the Agency and the City."

The Cooperation Agreement discussed above was approved by the City Council, also sitting as the Redevelopment Agency Board of Directors, on February 22, 2011. Section 1.1 of that agreement provides: "The Agency hereby grants to the City, and the City hereby accepts from the Agency, a grant in an amount not to exceed" \$3,475,632, the total cost of what is described in Exhibit A of the agreement as the "Downtown Revitalization" project, further described as a project to "accelerate efforts to revitalize historic downtown area." Grant funds would come from cash not otherwise allocated to other projects by the Agency, future redevelopment

property tax increment, future bond issue proceeds and monies from lease revenues or land sales received by the Agency.

“The improvements represent unfunded capital improvements in the City’s capital improvement plan as a result of the lack of funds available in the City’s General Fund,” the staff report stated. “It is not expected that general fund revenues will be available in the near term to fund these types of improvements.”

Subsequent to the Cooperation Agreement, the City Council, also sitting as the Redevelopment Agency Board, approved on March 8, 2011 the transfer of all non-stadium-related Agency capital improvement projects and remaining appropriations from the Redevelopment Agency to the City. A list of the projects to be transferred included the Downtown Revitalization project in the University Redevelopment Project Area.

It is clear that the transfer of this project, and the associated appropriations, from the former Redevelopment Agency to the City of Santa Clara, was expressly made for the purpose of attempting to protect the project against the dissolution of the Redevelopment Agency. For all of the reasons previously stated, agreements between the former Redevelopment Agency and the City are void.

The audit staff requested information on any contracts or other agreements with entities outside the City that would represent enforceable obligations, either agreements compelling the City to undertake the revitalization project, or agreements made with consultants or other entities to actually carry out the work, which would require expenditure of the monies transferred from the former Redevelopment Agency. No such documentation was provided.

2.a. Debt Service University Fund 938 \$3,636,177

This is a transfer of unencumbered cash, from the University Redevelopment Capital Projects to City Capital Projects.

These activities were recorded in Fund 938 of the RDA. When the ownership was transferred on March 8, 2011, this fund was not closed. No transfer transaction was recorded in the accounting records. Instead, the fund continued to be used to record activity.

We reviewed a calculation provided by the City of the fund balance upon transfer. We traced the activity of the period to the individual transactions in the general ledger detail. We calculated the components of the balance sheet as of March 8, 2011, by adding activity of the period (July 1, 2010, through March 8, 2011) to the Balance Sheet as of June 30, 2010.

2.b. Debt Service University Fund 902 \$99,170

This is a transfer of cash from Fund 902, University Project Area Operations, to City Capital Projects made after the major March 8, 2011 transfer from subsequent tax increment receipts.

We traced the activity of the period to the individual transactions in the general ledger detail. We calculated the components of the balance sheet as of March 8, 2011, by adding activity of the period (July 1, 2010, through March 8, 2011) to the Balance Sheet as of June 30, 2010.

Transfers to Stadium Authority

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
3	Bayshore North Project Area CIP	Stadium Authority Capital Projects Funds	\$ 8,297,231

Assets transferred constituted both restricted and unrestricted cash. The June 30, 2011, Santa Clara Redevelopment Agency (RDA) Statement of Revenues, Expenditures, and Changes in Fund Balances, for the Government Funds displays this as an Other Financing Uses of "Coop Agreement (to) SC Stadium Authority (Note 7A)." In Note 7A the reason given is "Transfers per the cooperation agreement between the Agency and the Stadium Authority." A brief description of the above follows:

From	Bayshore North Redevelopment Fund 939	Debt Service Bayshore North Fund 941	TOTAL Transfers under Cooperative Agreements	Subject to Reversal?
	[3.a.]	[3.b.]		
Cash	\$ 5,600,000	\$ 2,697,231	\$ 8,297,231	Yes

3.a. Bayshore North Redevelopment Fund 939 \$5,600,000

This is a transfer of cash, from Fund 939, Bayshore North Project Area Capital Improvement Program, to the Stadium Authority.

We traced this to the general ledger detail. The transfer was made in two pieces, one for \$1,600,000 and the other for \$4,000,000. Both were made on March 8, 2011, and were from General Ledger Account 12010, Cash.

3.a. Debt Service Bayshore North Fund 941 \$2,697,231

This is a transfer of cash, from Fund 941, Debt Service Bayshore North, to the Stadium Authority, representing in a transfer of debt proceeds on the 2011 debt issue.

We traced this transfer to the general ledger detail. This was part of a transfer of cash from GLA 12063, Cash with Fiscal Agent, on June 30, 2011 and represented a portion of proceeds from the 2011 bond sale of \$31,243,586.

The Stadium Authority meets the definition of "city" in H&S § 34167.10. Therefore, the Cooperation Agreement between the RDA and the Stadium Authority is deemed invalid after January 31, 2012 and is not an enforceable obligation after that date. This matter is currently the subject of litigation. In addition, this public entity agreement is subject to claw-back per H&S § 34167.15.

It should be noted that these were proceeds from a debt issuance made after December 31, 2010. AB 1484 only permits the expenditure of proceeds of bonds sold before December 31, 2010, upon receiving a finding of completion from DOF. Absent clear authority to spend the proceeds of bonds sold after December 31, 2010, the unspent proceeds must redeem the bonds themselves. Accordingly, these proceeds must be returned to the fiscal agent to be used for debt defeasance.

Transferred of Housing Assets

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
4	Special Revenue Housing Fund	Santa Clara Housing Authority	\$ 60,606,627

This is the transfer of fund balance, and related assets and liabilities, from the RDA Housing fund to the newly-formed Santa Clara Housing Authority on March 8, 2011.

The following items were transferred to the Housing Authority:

Item Transferred	Amount	Subject to Reversal?
Cash - Unencumbered	\$ 59,782,871	Yes
Receivable - Unrealized Gain & Accrued Interest	\$ 1,170,419	Yes
Accounts Payable	(\$ 346,663)	Yes
Loans Receivable – Conditional	\$ 68,842,937	No
Land Held for Development [Land-9 and Land-10]	\$ 7,103,770	No
Total Transfers on March 8, 2011	\$ 136,553,334	
Unallowable	\$ 60,606,627	Yes
Allowable	\$ 75,946,707	No

The June 30, 2011, Santa Clara Redevelopment Agency Statement of Revenues, Expenditures, and Changes in Fund Balances, for the Government Funds displays this as an Other Financing Uses of “Transfers (to) City of Santa Clara and SC Housing Authority (Note 7A).” In Note 7A the reason given is “Transfer per assignment and assumption agreement between the city, Agency and the SC Housing Authority.”

These activities were recorded in Funds 910, 915, and 920 of the RDA. When the ownership was transferred on March 8, 2011, these funds were not closed. No transfer transactions were recorded in the accounting records. Instead, the fund continued to be used to record the housing activity undertaken by the Housing Authority.

We traced the activity of the period (July 1, 2010, through March 8, 2011) to the individual transactions in the general ledger detail and/or period end accrual worksheets. We calculated the components of the balance sheet as of March 8, 2011, by adding activity of the period to the Balance Sheet as of June 30, 2010.

Background of Transfers

In February 2011, the Redevelopment Agency and the City of Santa Clara entered into a Cooperation Agreement whereby the City agreed to implement 12 affordable housing projects totaling \$58,829,470 and other housing-related programs based on the Agency’s pledge of funding. Two weeks later, the City established the Santa Clara Housing Authority, whose governing board consisted of the City Council members. Two weeks later, the City assigned its rights and obligations under the Cooperation Agreement to the Housing Authority. These

actions attempted to transfer appropriation authority to the newly-formed Housing Authority. Section 8 includes detail of these 12 projects.

The June 30, 2011 Comprehensive Annual Financial Report for the Redevelopment Agency of the City of Santa Clara reports a net transfer of \$60,606,627 from the Special Revenue Housing Fund. The June 30, 2011 report for the City of Santa Clara reports a parallel transfer into the Santa Clara Housing Authority for the same amount. The City's financial statement further reports the June 30, 2011 assets of the Housing Authority to include pooled cash and investments totaling \$62,406,372. Note 2B to the former Redevelopment Agency's financial statement reports:

The Special Revenue Housing Fund accounts for the required 20%, plus an additional City Council and Board approved 10% set aside (when available) of the Agency's tax increment revenues for the purpose of developing low and moderate income housing. On March 8, 2011 the City, Agency and the SC Housing Authority executed an assignment and assumption agreement whereby the SC Housing Authority assumed responsibility for housing projects with funding coming from the Agency.

Similar language was included in the City's financial statement.

The transfer of these funds was a three-step process.

Step 1: On February 8, 2011, the City Council, also serving as the Redevelopment Agency Board, approved a Cooperation Agreement whereby the City would implement affordable housing projects based on the Agency's pledge of funding for them. Exhibit 1 to the Cooperation Agreement included a list of 12 projects to be implemented, with funding totaling \$58,829,470. These were appropriation transfers and are examined in Section 8.

Step 2: On February 22, 2011, the City Council adopted a resolution making findings for the need to establish a housing authority. In a staff report recommending the resolution, the City Manager stated:

In light of Governor Brown's State budget proposal to eliminate redevelopment agencies and transfer those tax increment housing set-aside monies to local housing authorities, it is in the City's best interest to declare the need for and establish a City Housing Authority to help assure the protection and use of housing funds for the benefit of residents of Santa Clara.

An assessment of advantages of the move in the report added: "Establishment of a City-based housing authority would position the City to continue local control of housing funds generated by the Redevelopment Agency."

Step 3: Lastly, on March 8, 2011, the City Council, also sitting as directors of the Housing Authority and Redevelopment Agency, approved an Assignment and Assumption Agreement whereby the City's "rights, interest and obligations" under the Cooperation Agreement between the City and Redevelopment Agency would be assigned to the Housing Authority, including the

right to receive funding from the Redevelopment Agency, and to receive City-owned properties designated for affordable housing projects.

It is clear that these steps leading to the transfer of funding and responsibility for housing projects to the Housing Authority were expressly made for the purpose of attempting to protect the projects and funding against the dissolution of the Redevelopment Agency. The staff report for this action was headlined "Subject: Actions to Protect Redevelopment Agency Assets." Furthermore, a PowerPoint presentation on the action included a slide regarding the housing funds that stated "Purpose: Commits all unencumbered housing funds... Keeps decision-making authority with Council, not an 'oversight board'".

Both the February 22, 2011 and March 8, 2011 agreements were between the former Redevelopment Agency and the City of Santa Clara and are subject to claw-back.

H&S § 34163(c)(4) also prohibits the deposit of any funds into the Low and Moderate Income Housing Fund (LMIHF) after June 27, 2011, and H&S § 34163(c)(5) prohibits the transfer of any funds out of the LMIHF except to meet legal obligations that existed on June 27, 2011.

Moreover, H&S § 34176 states that amounts on deposit (i.e., cash) in the Low and Moderate Income Housing Fund are not available for transfer, but subsection (e) (1)-(6) defines assets that may be transferred to the successor housing agency. This includes receivables and land, provided that said assets were listed on the Housing Asset Transfer Form and approved by DOF. Consequently, all housing cash related to the March 8, 2011 transfer—totaling \$60,606,627—must be returned to the Successor Agency, but receivables and land may stay with the Housing Authority. Lastly two items are being allowed as offsets to cash to be transferred back. The first is transferred accounts payable on March 8, 2011, and the second is obligations paid before August 16, 2011 of \$1,291,773 as detailed in Section 8.

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
5	Debt Service & Housing Fund	Santa Clara Housing Authority	\$ 2,844,080

This is a transfer of cash from the RDA to the Santa Clara Housing Authority made in the spring of 2011 representing the housing set aside payment for four months made after the March 8, 2011 fund balance transfer.

From	Debt Service Bayshore North Fund 941	Special Revenue Housing Fund 920	TOTAL Transfers after March 8, 2011	Subject to Reversal?
	[5.a.]	[5.b.]		
Cash	\$ 933,757	\$ 1,910,323	\$ 2,844,080	Yes

5.a. Bayshore North Debt Service Fund 941 \$933,757

This is a transfer of cash from the RDA to the Santa Clara Housing Authority representing the 10% housing set aside payment for four months made after the March 8, 2011 fund balance transfer.

5.b. Special Revenue Housing Fund**\$1,910,323**

This is a transfer of cash from the RDA to the Santa Clara Housing Authority representing the 20% housing set aside payment for four months after the March 8, 2011 fund balance transfer. The City transferred these amounts to the newly-formed Housing Authority. According to H&S § 34177(D)(3), these receipts were to enable the housing program to pay obligations through December 31, 2011. As discussed above, the redevelopment dissolution law prohibited the creation of any new enforceable obligations after June 27, 2011. Furthermore, any new obligations purportedly created by the City or Housing Authority between March 8, 2011 and June 27, 2011 do not constitute "enforceable obligations" of the RDA. Therefore, we are establishing all transferred assets at their value when transferred as being agency cash returnable to the Successor Agency.

This transfer was recorded in Fund 920 of the RDA. The activity for this fund for FY11 was not provided, so we traced the activity to the trial balance.

Other Transfer Transactions

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
6	City General Fund	Debt Service Bayshore North	\$ 16,179,464

This is the balance of the Gateway Loan, fully described in Section 5. For the reasons described therein this is not a valid loan and represents a material misrepresentation on the part of the City of Santa Clara.

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
7	Debt Service Bayshore North Fund 941	Debt Service Bayshore North Fund 939	\$ 2,837,758

This is a transfer of cash from Fund 941, Debt Service Bayshore North, to Fund 939 Bayshore North Project Area Capital Improvement Program.

From	Debt Service Bayshore North Fund 941	Transaction date	Subject to Reversal?
Cash	\$ 770,000	July 2, 2011	Yes
Cash	\$ 2,067,758	December 31, 2011	Yes
Unallowable Transfers	\$ 2,837,758		

The January 31, 2012, Santa Clara Redevelopment Agency Trial Balance displays this in General Ledger Account 59950, Operating Transfers Out. In the transactional detail, the description given is "RDA XFER F941 CASH TO F939". Transfers recorded in the same General Ledger Accounting during FY11 were described in CAFR Note 7A with the reason "Transfers to City Capital Projects per cooperation agreement between the Agency and the City."

We traced this transfer to the general ledger detail. The transfer of \$770,000 was made on July 2, 2011. The transfer of \$2,067,758 was made on December 31, 2011. For reasons previously stated, these were payments for project costs made without expenditure authority pursuant to ABX1 26 and therefore should be returned as cash to the Successor Agency.

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
8	Debt Service University Fund 942	Debt Service University Fund 938	\$ 315,800

This is a transfer of cash from Fund 942, Debt Service University, to Fund 938, University Project Area Capital Improvement Program.

From	Debt Service University Fund 942	Subject to Reversal?
Cash	\$ 315,800	Yes

The January 31, 2012, Santa Clara Redevelopment Agency Trial Balance displays this in General Ledger Account 59950, Operating Transfers Out. In the transactional detail, the description given is "Xfer F942 Cash to F938." Transfers recorded in the same General Ledger Accounting during FY11 were described in CAFR Note 7A with the reason "Transfers to City Capital Projects per cooperation agreement between the Agency and the City." We traced this transfer to the general ledger detail. There was one transfer for \$315,800 made on January 31, 2012.

Item No.	Fund Making Transfer	Fund Receiving Assets	Amount
9	Housing Set Aside	Santa Clara Housing Authority LMIHF	\$ 3,085,698

This transfer was made as the housing set-aside payment from the tax increment received from the County between July 1, 2011 and January 31, 2012. However, H&S § 34163(c)(4) does not permit the deposit of funds into the LMIHF for this period.

From	Tax Increment	Subject to Reversal?
Cash	\$ 3,085,698	Yes

The City reversed this payment subsequent to January 31, 2012 to cover cash flow problems in the Successor Agency. For purposes of this report, however, it is being shown as an increase to unencumbered cash at January 31, 2012, since it was an available asset for the Successor Agency.

DESCRIPTION OF REAL PROPERTY

This section of the report provides a description of real estate property related transactions in the Santa Clara Redevelopment Agency real estate inventory as of January 31, 2012, or transferred to other entities subsequent to January 1, 2011. Schedule 4 is a table of the real property assets focused on parcels.

On March 8, 2011, the City of Santa Clara conveyed all land and development from the Redevelopment Agency to the City and entered into assignment and assumption agreements to enable the City to receive all rental income on ground leases for the transferred properties.

As described in Section 5, in 2005 the City has created a highly-inflated loan balance to transfer rents from the Agency to the City. By the date of transfer, the loan, when adjusted for a more appropriate initial principal balance and adjusted to LAIF interest rates had actually been overpaid. Yet at that time the City showed an overstated loan balance of \$153,664,000. Based on an estimate of value of various properties based on a consultant's estimate (Exhibit D), the City decreased the overstated loan by \$137 million as consideration for those properties. However, since the loan itself was overstated and in fact had been overpaid, this represented zero consideration for the property transfer.

As previously described, with the exception of certain housing parcels approved by DOF on the Housing Asset Transfer Form for subsequent transfer to the housing successor agency, all these properties and must be returned to the Successor Agency per H&S § 34167.5.

Certain lease revenues on specific properties were assigned to the City under various preexisting (pre-2011) Cooperation Agreements which under the law were valid until February 1, 2012. While rents received on these properties may be retained by the City until that date, all subsequent rents on those properties must be returned to the Successor Agency, plus interest to the date of transfer. In addition, all rents detailed in the schedule below assigned to the City under a 2005 cooperation agreement which created the Gateway loan must be returned to the Successor Agency, as the loan had been fully paid by the date of transfer.

Certain properties described as public purpose, inclusive of construction in progress (CIP), are required to be returned to the Successor Agency to be included in the Agency's Long-Range Property Management Plan. Ultimate decisions on the disposition of those properties are under the purview of the Successor Agency's Oversight Board.

A summary of all transferred land and lease revenues follows:

Santa Clara Land Transfers and Lease Revenues

Ref	Description	Nominal or Book Value	Date of		Lease Revenues	
			Lease	Expiration	Annual for 2011	Owed by City 3/8/11-1/31/12
Commercial						
Land-1	Gateway - Parcel 2 Only	14,793,309	2000	2022	3,639,002	3,032,502
Land-2	Conven. Center - Ballroom & Pkg	7,162,936	1985	2035	-	-
Land-3	Techmart Meeting Ctr	(See Land-2)	1998	2053 (1)	1,100,000	(7) -
Land-4	Hyatt Hotel - Ground lease	(See Land-2)	1985	2035 (2)	1,100,000	(7) -
Land-5	Hilton Hotel - Ground lease	8,860,000	1999	2054 (3)	400,000	(7) -
Land-6	Great America- Theme Park	73,532,992	1989	2019 (4)	5,300,000	5,300,000
Land -6a	- Parking Lease		1989		134,369	(7)
Land-7	Great America Theme Park - Parking	3,185,000				
	Total Commercial	\$ 107,534,237			\$12,012,696	\$ 8,332,502
Housing						
Land-9	Land held for future affordable Housing (Habitat)	1,703,500	n/a	n/a	-	-
Land-10	Land held for future affordable Housing	5,400,270	n/a	n/a	-	-
Land-11	Shelter Housing	1,479,897	2000	2055 (6)	-	-
	Total Housing	\$ 8,583,667				
Public Purpose						
Land-8	Martinson Child Care Center	1,444,589	2003	2038 (5)	-	-
Land-12	Northside Branch Library	463,375	n/a		-	-
Land-13	CIP Walsh Ave Sewer	3,711,301	n/a		-	-
Land-14	Fuel Site and Creek Trail	54,984	n/a		-	-
CIP-1	Downtown Revitalization	371,064	n/a		-	-
	Total Public Purpose	\$ 6,045,313				
Other-1	SOSA Leases/Subleases	n/a	2003	2071	\$1,361,000	(7) \$ -
Grand Total Land Transfers		\$ 122,163,217			\$13,373,696	\$8,332,502

(2) Plus four 10 year renewal options +one 9 year option (total 99 years).

(3) Plus three 10 year renewal options (total 75 years).

(4) Original 30 year lease thru 2009, plus three 10 year options. Exercised 1st option thru 2019.

(5) \$1 per year.

(6) 55 years at \$1 per year plus one 45 year renewal option.

(7) Under pre-2011 coop agreements the City was entitled to these rents until all coop agreements terminated on February 1, 2012.

Item No.	Parcel No.	From	To	Use	Book Value
Land -1	104-01-100	RDA	City of Santa Clara	Development	\$ 14,793,309

Gateway - Parcel 2, known as Assessor's Parcel 104-01-100, was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to Grant Deed recorded as Document 21216112. Due to the significant findings on this one transaction, and to material misrepresentations on the part of the City of Santa Clara disclosed therein, this transaction is more fully described in section 5 of this report. In short, the City used an artificially-high loan balance to enable it to transfer Agency lease revenues to the City.

Item No.	Parcel No.	From	To	Use	Book Value
Land -2	104-55-016	RDA	City of Santa Clara	Convention Center	\$ 7,162,936
	104-55-017				
	104-43-025				

This property at 5001 Great America Parkway is the site of the Santa Clara Convention Center and consists of approximately 1.76-acres. It was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to Grant Deed recorded as Document No. 21216115. The book value of these parcels is \$7,162,936, and includes properties described under Land-3 and Land-4 described below.

The estimated book value of the property, as of the date of the transfer, is based on a circa-1984 value of \$4,730,000 reported for the land. According to a 1984 First Amended Cooperation Agreement between the City and Redevelopment Agency, the RDA was to pay the City \$4,730,000, plus interest at the rate of 10 percent, in equal installments of \$490,475 for 35 years through 2019, for a total payment of \$17,165,995, in consideration of receiving the Convention Center site from the City via a quitclaim deed. The estimated book value of the property also includes the value of construction in progress on an adjacent parking structure and pedestrian bridge valued at \$1,851,291, and expansion of the Convention Center Ballroom valued at \$581,645, as identified in a General Fixed Assets spreadsheet provided by City staff. The ballroom expansion was subsequently completed, while construction of the parking garage is still in progress. These construction projects are discussed in more detail in Section 7 under item B (Convention Center Parking Garage Modification) and item I (Convention Center Ballroom Expansion and Fire Alarm Upgrade). The estimated book value is not intended to approximate the property's fair market value as of January 31, 2012, and is likely significantly below the property's fair market value.

Item No.	Parcel No.	From	To	Use	Book Value
Land -3	104-55-013	RDA	City of Santa Clara	Techmart Conference Center Development	Values included in Land - 2

This property at 5201 Great America Parkway is the site of the Techmart Meeting Center and office complex. This property is adjacent to the Convention Center, as is the Hyatt hotel discussed below. A General Fixed Asset spreadsheet provided by the City identified the book value of the "Conference Center Property" as \$4,730,000. During the exit conference for this audit, City staff stated that this value applied only to the land used for the Convention Center building itself. A 1984 First Amended Cooperation Agreement for the Convention Center properties, and an associated quitclaim deed transferring them from the City to the Redevelopment Agency, did not assign a value to this property, other than stating that the consideration would be the City's receipt of all future revenue obtained by the Redevelopment Agency from leasing the property for development. During the exit conference for the audit, City staff stated that they believe the book value of this property to be \$0, since the agreements did not assign a value to it, and because the "Conference Center Property" referenced on the asset spreadsheet refers only to the Convention Center footprint itself. We did not attempt to estimate the property's January 31, 2012 fair market value, which would presumably be much higher, based on the lease payments being received, and the fact that the site includes not only the footprint of the Techmart building itself, but also an interest in parking and other common areas that serve the development.

The Redevelopment Agency's June 30, 2011 financial statement reports that for Fiscal Year 2010-11, the Agency paid the City \$2,591,029 from the lease payments it received, which appear to be payments for this property and the Hyatt hotel property discussed below. This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216117. At the same time, an Assignment and Assumption Agreement assigned the Redevelopment Agency's interest, rights and obligations under the lease of this property to the City of Santa Clara.

In May 1998, the Redevelopment Agency entered into a long-term ground lease with Carramerica Techmart, LLC for the Techmart site. The original term was 55 years, with two renewable 10-year options. According to the Redevelopment Agency June 30, 2011 financial statement, for that fiscal year, the lessee paid rent of \$1.1 million on the property. Meanwhile, the City of Santa Clara's June 30, 2011 financial statement Note 4B includes an estimate of the future lease payments to be received from the Techmart lease, estimating the total from Fiscal Year 2011-12 to the end of the lease at \$71,295,454.

Rents paid to the City from March 8, 2011 through January 31, 2012, are estimated to be \$916,667, and were transferable to the City via a preexisting (pre-2011) cooperation agreement which according to law is void on February 1, 2012. All subsequent rents must be returned to the Successor Agency plus interest to the date of settlement.

Item No.	Parcel No.	From	To	Use	Book Value
Land-4	104-55-005 104-55-102	RDA	City of Santa Clara	Hyatt Hotel Development	Values included in Land - 2

This property at 5101 Great America Parkway is the site of a Hyatt hotel. This property is adjacent to the Convention Center, as is the Techmart building previously discussed. A General Fixed Asset spreadsheet provided by the City identified the book value of the "Conference Center Property" as \$4,730,000. During the exit conference for this audit, City staff stated that this value applied only to the land used for the Convention Center building itself. A 1984 First Amended Cooperation Agreement for the Convention Center properties, and an associated quitclaim deed transferring them from the City to the Redevelopment Agency, did not assign a value to this property, other than stating that the consideration would be the City's receipt of all future revenue obtained by the Redevelopment Agency from leasing the property for development. During the exit conference for the audit, City staff stated that they believe the book value of this property to be \$0, since the agreements did not assign a value to it, and because the "Conference Center Property" referenced on the asset spreadsheet refers only to the Convention Center footprint itself. We did not attempt to estimate the property's January 31, 2012 fair market value, which would presumably be much higher, based on the lease payments being received, and the fact that the site includes not only the footprint of the Hyatt hotel building itself, but also an interest in parking and other common areas that serve the development.

The Redevelopment Agency's June 30, 2011 financial statement reports that for Fiscal Year 2010-11, the Agency paid the City \$2,591,029 from the lease payments it received, which appear to be payments for this property, and the Techmart Conference Center property discussed previously in this report. This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216116. At the same time, an Assignment and Assumption Agreement assigned the Redevelopment Agency's interest, rights and obligations under the lease of this property to the City of Santa Clara.

In April 1985, the Redevelopment Agency entered in a ground lease with SCCC Associates for the hotel site. The original term of the lease was for 50 years, with four renewable 10-year options and an additional nine-year option, for a total maximum term of 99 years. According to the Redevelopment Agency's June 30, 2011 financial statement Note 3C, in FY 2010-11 the current lessee, Hyatt Equities, LLC, paid \$1.1 million in rent under this ground lease, and another \$346,000 in rents for the lease of a ballroom in the Convention Center itself. Meanwhile, the City of Santa Clara's June 30, 2011 financial statement estimates the future lease revenue from this site from fiscal year 2011-12, to the end of the lease, as \$16,701,923, including rent for both the ground lease and the ballroom lease.

Rents paid to the City from March 8, 2011 through January 31, 2012, which are estimated to be \$916,667, were transferable to the City via a preexisting (pre-2011)

cooperation agreement, which according to law is void on February 1, 2012. All subsequent rents collected by the City through the date of settlement, will need to be returned to Successor Agency plus interest.

Item No.	Parcel No.	From	To	Use	Book Value
Land-5	104-43-054	RDA	City of Santa Clara	Hyatt Hotel Development	\$ 8,860,000

This property at 4949 Great America Parkway is currently the site of a Hilton Hotel. This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216110. Also on March 8, 2011, the Redevelopment Agency approved an Assignment and Assumption Agreement assigning the Agency's interest, rights and obligations under the lease to the City. This property was originally part of 165 acres acquired by the City for its electric utility in 1965. The estimated book value of \$8,860,000 is based on an appraisal conducted for the City in 2006, when the Redevelopment Agency provided a cash payment to the City for the property, carrying out the terms of a 1985 Cooperation Agreement in which the Agency had agreed to buy the property for the purpose of leasing it for development. This estimated book value is not intended to approximate the property's current fair market value as of January 31, 2012.

According to the Redevelopment Agency's June 30, 2011 financial statement Note 3D, the Agency in July 1999 entered into a long-term ground lease with Santa Clara Hotel, LLC to develop this parcel for the hotel and related facilities. The initial lease term is 55 years, with three optional 10-year extensions. Under the lease terms, the Agency was to receive a specified minimum rent adjustable at specified times during the lease, and, after the third lease year, a percentage of hotel gross revenues if hotel revenues exceeded certain levels in any applicable year. The lessee also agreed to pay impositions, including taxes and assessments, levied against the parcel. In addition to the \$8,860,000 Agency payment to the City in 2006 for the property, the 1985 Cooperation Agreement was also amended in 2006 to provide that lease revenues that the Agency had formerly paid to the electric utility fund were instead to be paid to the City. Note 3D to the June 30, 2011 financial statement reports that the lease revenue received in Fiscal Year 2010-11 was \$551,000.

Furthermore, the City of Santa Clara's June 30, 2011 financial statement Note 4D estimates future revenues from the lease. According to the note, minimum revenues from this lease from Fiscal Year 2011-12 to the end of the lease total \$17,233,333.

Rents paid to the City from March 8, 2011 through January 31, 2012, which are estimated to be \$333,333, were transferable to the City via a preexisting (pre-2011) cooperation agreement which according to law is void on February 1, 2012. All subsequent rents through the date of settlement will need to be returned to Successor Agency plus interest.

Item No.	Parcel No.	From	To	Use	Book Value
Land-6	104-42-014 104-42-019	RDA	City of Santa Clara	Great America Theme Park	\$ 73,532,992

These properties at 4701 Great America Parkway constitute the site of the Great America theme park. This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216109. A General Fixed Asset spreadsheet provided by City staff identified the book value of this property as \$73,532,992. According to the Redevelopment Agency's June 30, 2011 financial statement Note 3A, Cedar Fair, L.P., the current theme park operator, leases the site from the Agency, under a June 1989 lease entered into with a former operator, and carried forward through several operator ownership changes. The initial term of this lease expired December 31, 2009, according to the financial statement notes. The first of three 10-year renewals was exercised by Cedar Fair by notice to the Redevelopment Agency in December 2007.

Under the lease, the Redevelopment Agency was to receive \$5.3 million annual rent, payable in equal quarterly installments, plus additional rent at escalating percentages based on annual gross revenues earned by the theme park. According to the financial statement note, the park paid only the basic rent in Fiscal Year 2010-11.

Furthermore, the City of Santa Clara financial statement dated June 30, 2011, Note 4A includes an estimate of future minimum lease revenues from this lease. According to the note, the minimum revenues from Fiscal Year 2011-12 through the end of the lease are estimated at \$45,050,000. The fair market value of the property as of January 31, 2012 is unknown.

As described in Section 5, the 2005 Amendment No.1 to the 2000 Cooperation agreement between the City and the Agency for conveyance of the Gateway Parcel 2 allowed the City to improperly transfer these rents towards the payment of an artificially high loan created for the Gateway land conveyance. In addition, rents paid to the City from March 8, 2011 through January 31, 2012 are estimated to be \$5,300,000. This amount plus all future rents through the date of settlement will need to be returned to Agency plus interest.

In addition, the overstated Gateway loan was reduced by \$137 million as an alleged payment for this and other transferred properties. As described in Section 5, this represented zero consideration for this unallowable property transfer.

Item No.	Parcel No.	From	To	Use	Book Value
Land-6a	104-43-052	RDA	City of Santa Clara	Leasehold interest for Parking	\$ 0

In addition to acquiring the theme park itself in 1985, the Sports and Open Space Authority received, and then transferred to the former Redevelopment Agency, the theme park's leasehold interest in City-owned property, AP No. 104-43-052, that Marriott was leasing from the City for theme park parking. According to the former Redevelopment Agency's FY 2010-11 financial statements, Note 3, a Cooperation Agreement between the City and the Agency required the Agency to remit lease payments from the theme park to the City's General Fund and Electric Utility. Lease payments for the year ended June 30, 2011 totaled \$134,694.

The Cooperative Agreement is an agreement between the former Redevelopment Agency and the entity that formed the Redevelopment Agency, and is therefore null and void after January 31, 2012, under the Redevelopment Dissolution Law. Since the leasehold interest is an interest of the former Redevelopment Agency with annual rents, estimated at \$134,694, all future rents through the day of settlement, will need to be returned to the Successor Agency, plus interest.

Item No.	Parcel No.	From	To	Use	Book Value
Land-7	104-43-051	RDA	City of Santa Clara	Great America Theme Park Parking	\$ 3,185,000

This property is adjacent to the Hilton Hotel site discussed previously, and is generally known as the North/South parcels. The General Fixed Assets spreadsheet provided by City staff reports the book value of this property at \$3,185,000. This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216109, the same Grand Deed used to transfer the Great America theme park property previously discussed.

This parcel, totaling about 9.6 acres, serves as parking lots for the theme park. It is the remainder of approximately 13.5 acres transferred to the former Redevelopment Agency by the City of Santa Clara via Quitclaim Deed in 1985, at the same time the Great America theme park was acquired by the City via the Sports and Open Space Authority and the Redevelopment Agency. This property, and the Hilton Hotel site, were originally two separate parcels, leased by the Redevelopment Agency to a private developer who operated the parking lots, and eventually planned to build a hotel and office buildings on the combined 13-acre site. Those leases were assigned back to the RDA by the developer in 1988, to settle litigation and because the developer was not able to secure development rights from the City for the properties. In 1999, the former Redevelopment Agency re-subdivided the property into a 3.9-acre lot that is the site of the Hilton Hotel, and the remaining 9.6-acres that continues to be used for theme park parking.

Because this 9.6-acre parcel was an asset of the former Redevelopment Agency, any parking revenues received from the property, from March 8, 2011 through January 31, 2012, and all future rents through the date of settlement, will need to be returned to the Successor Agency, plus interest. The FY 2010-11 financial statements for the City and the former Redevelopment Agency did not estimate the revenue received from this parcel.

Item No.	Parcel No.	From	To	Use	Book Value
Land-8	097-08-053	RDA	City of Santa Clara	Martinson Child Care Center	\$ 1,444,589

This property at 1350 Hope Street is the site of the Martinson Child Development Center. This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216111.

According to a November 2003 City of Santa Clara staff report, this facility was constructed by the State of California as part of the conversion of the former Agnews State Hospital property to residential and commercial development. Martinson was given a five-year lease with an option to purchase the property, assisted by a \$1 million contribution from the developer of the Rivermark development project built on the former State hospital property. In June 2003, the State determined that the child care center was financially unable to exercise its option, and was preparing to sell the site to the Rivermark developer. Instead, the City agreed to purchase the site for \$2,438,375, using \$1 million from the developer's contribution and the remainder from Redevelopment Agency funds. A General Fixed Assets spreadsheet provided by City staff reports the current book value of the property as \$1,444,589. In 2003, the Redevelopment Agency leased the site for 35 years to the Santa Clara Unified School District for \$1 per year. The lease between the Redevelopment Agency and school district included the right of either party to terminate it on 30-days' notice. The school district subleased the site to Martinson, since the Redevelopment Agency by law could not operate or maintain such a facility. The fair market value of the property as of January 31, 2012 is unknown.

Item No.	Parcel No.	From	To	Use	Book Value
Land-9	101-15-031	RDA	City of Santa Clara Housing	Future Affordable Housing Development	\$ 1,703,500

This property at 3575 De La Cruz Boulevard is the site of the City of Santa Clara's former Fire Station No. 6. It is one of several properties included among assets shown as "Land held for redevelopment" in the balance sheet for the Santa Clara Housing Authority, reported as part of the City of Santa Clara's June 30, 2011 financial statements. This property was transferred by the Santa Clara

Redevelopment Agency to the City of Santa Clara Housing Authority on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216119.

The \$1,703,500 book value of the property was reported on a spreadsheet provided by City staff, which indicated the property was acquired during Fiscal Year 2005-06. The City also provided a copy of an appraisal report by Hulbert and Associates, Inc., establishing the property value as of March 21, 2006 at \$1,700,000. The fair market value of the property as of January 31, 2012 is unknown.

According to City staff, this property is the future site of an affordable housing development to be carried out by Silicon Valley Habitat for Humanity, Inc. The City provided two documents as evidence of the requirement to carry out the project. First, an Exclusive Negotiation Agreement dated August 18, 2009 provided for a 270-day negotiation period for the Agency and developer to agree on a Disposition and Development Agreement for the site. However, the document also indicated that the Agreement terminated after the 270 days, unless extended by the parties, and the City did not provide evidence that any such extension occurred.

In addition, the City executed a Home Capital Loan Agreement between the City and Habitat for Humanity Silicon Valley, in which the City agreed to loan the non-profit \$1,046,250 in federal Department of Housing and Urban Development funds “to be utilized during the time period between August 18, 2010 and June 30, 2014” on the project, which is described in an attachment to the loan agreement as construction of six single-family homes for low income residents on the property. The loan agreement includes a termination clause that permits termination for convenience, but only if both sides agree. However, the loan agreement with Habitat for Humanity is with the City, not the Redevelopment Agency. Therefore this agreement does not constitute an enforceable obligation of the former Redevelopment Agency.

This property was listed on the Agency’s Housing Asset Transfer Form and was not challenged by DOF as a property to be transferred to the housing successor agency. We have therefore classified this as a housing asset on Schedule 1.

Item No.	Parcel No.	From	To	Use	Book Value
Land-10	224-37-068	RDA	City of Santa Clara Housing	Future Affordable Housing Development	\$ 5,400,270

This property is located at the southeast corner of San Tomas Expressway and Monroe Street. It is one of several properties included among assets shown as “Land held for redevelopment” in the balance sheet for the Santa Clara Housing Authority, reported as part of the City of Santa Clara’s June 30, 2011 financial statements. This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara Housing Authority on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216119.

The \$5,400,270 book value of the property was reported on a spreadsheet provided by City staff, which indicated the property was acquired during Fiscal Year 2004-05. The City also provided an Agreement for Purchase of Real Property, executed December 14, 2004, between the Redevelopment Agency and the County of Santa Clara, which stated that the 2.474-acre parcel was considered to be excess land resulting from the design and construction of the expressway, and that the County had obtained an appraisal which estimated the value of the property at \$5,400,000. The property was formally transferred from the County to the Redevelopment Agency pursuant to a Grant Deed executed January 11, 2005, and recorded as Document No. 18198252. The fair market value of the property as of January 31, 2012 is unknown.

The purchase agreement for the property states: "County desires to sell the SE San Tomas/Monroe Parcel to be utilized for affordable housing purposes." However, this statement is not sufficient to comprise an enforceable obligation requiring the development of affordable housing on this site. The City was not able to document an agreement with a developer or existence of other third-party obligations related to this property.

This property was listed on the Agency's Housing Asset Transfer Form and was not challenged by DOF as a property to be returned to the Successor Agency. We have therefore classified this property as a housing asset on Schedule 1

Item No.	Parcel No.	From	To	Use	Book Value
Land-11	230-06-053	RDA	City of Santa Clara Housing	Shelter Housing	\$ 1,479,897

This property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara Housing Authority on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216119, along with the previous two properties described. According to information obtained from City staff, this property was acquired from the Southern Pacific Transportation Company during Fiscal Year 1995-96, by the Housing Program Fund of the Redevelopment Agency. Staff reported that the book value reflects the purchase price for the property.

City staff provided a Lease Agreement, dated December 14, 2000, providing for the lease of this property to Homesafe Santa Clara, L.P., a limited partnership comprised of Innvision of Santa Clara County, a local non-profit specializing in services for the homeless, and Caritas Housing, a non-profit low-income housing developer. According to the lease, and an associated Memorandum of Understanding described in the lease, Homesafe constructed affordable housing specifically as transitional housing for women and children recovering from domestic violence.

The initial term of the lease was for 55 years, for a rent of \$1 per year, with an additional 44-year option under which Homesafe would pay fair market rent to the

Redevelopment Agency, and not have income restrictions on tenants, or a series of five-year renewal terms at rents escalating from the initial term rent. The initial term of the lease is not subject to termination other than for cause. The existence of the 55-year lease, at a nominal annual rental, is probably why no book value was listed for the property in Redevelopment Agency or City asset statements. The fair market value of this property as of January 31, 2012 is unknown.

This property was listed on the Agency's Housing Asset Transfer Form and was not challenged by DOF as a property to be returned to the Successor Agency. Therefore, we have classified this as a housing asset on Schedule 1.

Item No.	Parcel No.	From	To	Use	Book Value
Land-12	097-08-089	RDA	City of Santa Clara	City CIP-Branch Library	\$ 463,375

The General Fixed Asset spreadsheet provided by City of Santa Clara staff to support the value of properties transferred from the Santa Clara Redevelopment Agency to the City of Santa Clara includes \$463,375 of construction in progress on the Northside Branch Library, a City capital improvement project that was being carried out by the Redevelopment Agency.

Donation of the library site, located on Rivermark Parkway, was a condition of a December 5, 2000 Development Agreement between the City of Santa Clara, the State of California and Rivermark Partners, LLC for development of the former Agnews State Hospital property as residential and commercial development. That agreement did not require construction of the library, only donation of the site, and to our knowledge no State law requires library construction.

As discussed in Section 7, item A, on February 22, 2011, the City of Santa Clara and the Redevelopment Agency entered into a Public Improvements Grant and Cooperation Agreement whereby the Agency would commit \$19.8 million in funding for the City to use to build the library. On January 31, 2012, well after ABX1 26 took effect, the City of Santa Clara entered into a Library Development and Funding Agreement with the Santa Clara City Library Foundation and Friends, which provides for the Foundation to carry out the City's obligation to build the library under the February 22, 2011 agreement with the Redevelopment Agency. Therefore, as of the date of this agreement, the Library Foundation would have had actual or constructive knowledge that the funding agreement between the Redevelopment Agency and the City was invalid. The Library Foundation, in turn, contracted with the City to carry out the development.

The transfer of construction-in-progress worth \$463,375 on parcel 097-08-089 falls within the scope of H&S § 34167.5 and is accordingly shown as an asset on Schedule 1.

Item No.	Parcel No.	From	To	Use	Book Value
Land-13	CIP	RDA	City of Santa Clara	City CIP - Walsh Ave. Sewer	\$ 3,711,301

The General Fixed Asset spreadsheet provided by City of Santa Clara staff to support the value of properties transferred from the Santa Clara Redevelopment Agency to the City of Santa Clara includes \$3,711,301 of construction in progress on the Walsh Avenue Sanitary Sewer and Recycled Water project. According to the City's Fiscal Year 2011-12 Capital Improvement Project Budget, the Santa Clara Redevelopment Agency was to contribute up to \$8 million "as this project delivers capacity in the sewer main along Great America Parkway allowing for future development in the Redevelopment area."

Other documents provided by City staff indicate that construction of this project was substantially completed by the time of this transfer. The March 8, 2011 transfer of construction-in-progress on the Walsh Avenue sewer project falls within the scope of H&S § 34167.5, and is accordingly shown on Schedule 1.

Item No.	Parcel No.	From	To	Use	Book Value
Land-14	CIP	RDA	City of Santa Clara	City CIP - Fuel Site & Creek Trail	\$ 54,984

These were costs incurred on the creek trail project detailed in Section 7 by the March 8, 2011, transfer date of \$18,984 plus the fuel site project of \$36,000.

Item No.	Parcel No.	From	To	Use	Book Value
CIP-1	CIP	RDA	City of Santa Clara	City CIP - Downtown Revitalization	\$ 371,064

These were costs incurred by March 8, 2011, on the downtown revitalization project detailed in Section 7.

Item No.	Parcel No.	From	To	Use	Book Value
Other-1	097-05-105 097-05-097 097-83-001	RDA	City of Santa Clara	Fairway Glen Development Project	Lease Revenues

These three parcels comprise a series of apartment complexes generally known as the Fairway Glen Development Project. The parcels were leased to the Santa Clara Redevelopment Agency by the Santa Clara Sports and Open Space Authority. Two parcels were leased in 1996, and the third was leased in 1999. The leasehold interest in these properties was transferred from the Santa Clara Redevelopment Agency to the City of Santa Clara on March 8, 2011, pursuant to an Assignment and Assumption Agreement recorded as Document No. 21216120.

According to the City of Santa Clara June 30, 2011 financial statement Note 7, in February 1996, the Agency, as lessee from the Open Space Authority, entered into a sublease with the developer of the first of the three apartment complexes, which had already been completed. According to the financial statement, the purpose of the sublease was to enable the developer to obtain financing based on its interest in the sublease and the Agency's interest in the master lease with the Open Space Authority. In January 1996, according to the financial statement note, the Agency completed a Disposition and Development Agreement and subleases with developers of the other two complexes, which were subsequently completed.

According to the financial statement notes, and a copy of the sublease for the first parcel, the terms of the leases from the Open Space Authority to the Redevelopment Agency, and the subleases to the developers, are for a maximum of 75 years, including two 10-year options. According to the financial statement note, the Redevelopment Agency receives rent calculated at specified percentages of net operating income, operating cash flow and refinancing or sales proceeds from the subleases, and in FY 2010-11, it received a combined total of \$1,361,000 in rent from the three properties. The three leases of the property from the Open Space Authority to the Redevelopment Agency required the Redevelopment Agency to pay rent of \$10 per year, per parcel. However, a March 7, 2011 staff report to the City Council indicates that the City General Fund ultimately received the rents from the developer, under a Cooperation Agreement between the two entities, even though such a transfer of revenues was not described in the leases between the Open Space Authority and the Redevelopment Agency or any other documentation. Therefore, rents transferred between March 8, 2011 and January 31, 2012, estimated to be \$1,134,267, was permitted by the Cooperation Agreement but all subsequent rents must be returned to the Successor Agency, plus interest to the date of settlement.

Furthermore, the City's June 30, 2011 financial statement includes estimates of the minimum lease payments to be received on the three parcels. According to Note 7D, in Fiscal Year 2011-12, a minimum of \$967,464 should be received, and through the end of the lease, a minimum of \$39,591,657.

Due to the fact that the lease of this property by the Redevelopment Agency from the Open Space Authority was for a token rent, and the Agency was entitled to receive substantial rent from the developers under the subleases, the leasehold interest in these three parcels was clearly an asset of the Redevelopment Agency. The March 8, 2011 transfer of the leasehold interest to the City was also expressly made to protect the revenue received from dissolution of the Redevelopment Agency. The title of the staff report on the proposed transfer is "Actions to Protect Redevelopment Agency Assets," and the staff report, describing the advantages of the transfer, states: "Assignment of this leasehold interest and the Cooperation Agreement to the City will ensure that the City General Fund continues to receive the annual leasehold payments from the private party sub-lessee."

The transfer of the Redevelopment Agency leasehold interest in the three Fairway Glen parcels to the City and any lease revenues received by the City after January 1, 2011 fall within the scope of H&S § 34167.5 and should be reversed, with interest. Rents paid to the City from March 8, 2011 through January 31, 2012, estimated to be \$1,361,167 are permitted under a cooperation agreement. All subsequent rents should be returned to the Successor Agency plus interest to the date of settlement.

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CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

Section 5: Gateway Property Transfer

Assets Involved:

- Gateway Property: Parcel #2 - APN #104-01-100
- Estimated Value: \$37.5 million to \$52.6 million (based on a 2000 appraisal provided by the City).
- Annual Lease Revenue: \$3,639,002 from the Irvine Company, LLC.

Liabilities Involved:

- 2000 Cooperation Agreement with the City: Balance owed by RDA to the City @11% interest as of 6-30-2011: \$16,730,452.
- Total obligation claimed on EOPS and disallowed on first ROPS (inclusive of interest): \$88,853,452.
- Initial basis of disallowance: agreements with cities are invalid and not enforceable (H&S §§ 34171(d)(2), 34178 (a)).

General: This transaction raises several major concerns, discussed below. This alleged obligation of the former Redevelopment Agency was previously disallowed based on H&S § 34178 (a), which states that after the dissolution date of redevelopment, January 31, 2012, contracts between the city and its redevelopment agency are invalid and not binding on the Successor Agency. The primary purpose of the agreements was to create a mechanism for transfer of monies from the Redevelopment Agency to the City of Santa Clara General Fund to support general operations of the City. Based upon a review of the agreements and related transactions, we believe that the agreements between the City and the former Redevelopment Agency violated the Community Redevelopment Law as it existed even before the Redevelopment Dissolution Law was enacted. Therefore, these agreements do not constitute a "legally binding agreement or contract that is not otherwise void as violating the debt limit or public policy," as stated in H&S § 34171(d)(1)(E) of the Redevelopment Dissolution Law, and therefore cannot be reinstated. As a consequence we conclude that:

- Gateway - Parcel 2 is to be returned to the Successor Agency, along with certain rents received by the City since March 8, 2011 (estimated to be \$8.3 million through January 31, 2012), plus interest;
- the 2011 Assignment and Assumption Agreement transferring Parcel 2 and any associated future rents to the City be considered void;
- the property and rights to all future rents be returned to the Successor Agency; and,
- the currently unenforceable 2000 Cooperation Agreement not be reentered nor reinstated by the Oversight Board of the Successor Agency.

Lastly, based on our analysis, we believe the City owes the Successor Agency \$8.4 million for the overpayments made by the RDA to the City for the property through January 31, 2012, when the transaction is recalculated with interest at LAIF rates (H&S § 34191.4(b)). As shown on

Schedule 3, this overpayment may offset all other existing City loans to the RDA and would still result in a net receivable due from the City of \$2,031,658.

Chronology:

- **January 1973** – The four parcels comprising Gateway were acquired by the City. Parcel 4 was a solid waste landfill and is currently used as an extension of a golf course and is not a part of this transaction.
- **May 2, 2000** – City and RDA enter into a Cooperation Agreement based on a 1999 Disposition and Development Agreement (DDA) between the RDA and the Irvine Company LLC related to Parcels 1, 2 and 3. The Cooperation Agreement involved the eventual transfer of land from the City to the RDA. In exchange for the land, the RDA was to transfer to the City payment of all rents received for the property under any of the subsequent leases between the RDA and the Irvine Company as detailed in the DDA for Parcels 1, 2 and 3.
- In 2000, the RDA also had an appraisal prepared for the three parcels (1-3) covered by the DDA. Based on the rents detailed in the DDA, the Sedway Group issued a February 2, 2000 appraisal estimating site value in a range between \$72 million and \$101 million (\$41 - \$58 per square foot, respectively) for the property's highest and best use. These site values were based on the rental income stream for a 75-year period. (See Exhibit A.)
- **February 14, 2001** – According to County Assessor records, the City transferred title to the RDA for Parcel 2 only. The Irvine Company, LLC was recorded as leasee on the County Assessor's records for purposes of possessory interest taxes. However, as rents did not commence until June 2003, the County Assessor did not record an appraisal value to their records until the FY 2003-04 tax year.
- **February 16, 2001** – The date the City subsequently stated as the date of property transfer and, by adoption of the subsequent 2005 Amendment No. 1, the commencement of the RDA mortgage obligation to the City.
- **June 2003** – The Irvine Company began paying rents to the RDA for Parcel 2, and the RDA transferred these rents to the City (The annual rent payments of \$3,639,002 continued through March 2011 when the RDA transferred Parcel 2 back to the City.). In FY 2003-2004, the County Assessor assessed the property for possessory interest taxes.
- **May 2, 2005** – The City and RDA signed Amendment No.1 to the 2000 Cooperation agreement. This amendment did several key things that changed the fundamental terms, value and compensation of the 2000 Cooperation Agreement:
 - First, it erroneously assigned a land value to Parcel 2 only, based on the 2000 appraisal's highest and best use at the high value of the range of \$101 million for all three parcels. Using that appraisal for Parcel 2 only would result in a range between \$37.5 and \$52.6 million based on proposed rents in the DDA. (See Exhibit A.)
 - Second, it essentially established a retroactive loan, which commenced on February 16, 2001, at 11% interest. It should be noted that during that quarter, LAIF rates were only 2.85%. Moreover, it is important to note that the City still had not transferred Parcels 1 and 3 to the RDA, so the RDA was effectively paying the City based on the entire purchase price (at the maximum appraised value) for all three parcels, even though the City still owned two of the parcels.
 - Third, it broadened the stream of revenues that the RDA could use to pay the City, by allowing payment from "any Agency source of funds when and as

available.” Additionally, by imposing an 11% interest rate on an erroneously inflated debt, it artificially created a vehicle to allow annual revenue transfers to the City of \$11,110,000 each year. To the extent that the transfers fell below this amount, they would be added to the loan balance. This allowed the RDA to transfer other rents and sources of revenue to the City, most notably the rent from Great America amusement park. Consequently, rents transferred from the RDA to the City increased from \$3.6 million in 2005-06 to \$9.6 million in subsequent years, until the RDA transferred Parcel 2 (and all associated rents) back to the City in 2011.

- Lastly, by making the loan retroactive to 2001 at 11% interest, the 2005 amendment increased the total obligation due to the City as of June 30, 2005 by \$41,173,879. This was the retroactive difference between previously transferred rents on Parcel 2 (per the 2000 agreement) of \$3,639,002, and retroactive annual accruals of interest of \$11,110,000 for the February 16, 2001, through June 30, 2005, period.
- While the RDA held title to Parcel 2, it spent \$14,793,309 on site development in satisfaction of DDA requirements for the Irvine Company.
- **March 8, 2011** – The RDA transferred Gateway-Parcel 2 back to the City along with other properties and also transferred its interest in all leases back to the City through an Assumption and Assignment Agreement. The RDA also credited the loan for \$137 million leaving a balance due of \$16.1 million. The basis for the \$137 million credit was an informal estimate of land value by Keyser Marston Associates for five properties (Gateway plus four others) transferred back to the City (see Exhibit D). Subsequent interest on the remaining loan at the 11% rate left a balance due of \$16.7 million as of June 30, 2011.
- **March 9, 2011** – A resolution was adopted by the City and RDA, and a Property Conveyance Agreement was executed providing for the transfer of several properties within the Bayshore North Redevelopment Area from the RDA to the City. The conveyance agreement stated “...the Agency has acquired certain parcels of real property within the project area” and proceeded to name the properties that were being transferred to the City. As the list below shows, this agreement included all three Gateway parcels even though the City had never transferred Gateway Parcels 1 and 3 to the RDA.
 - Tasman Drive and Great America (APN #104-42-019) – Theme park
 - 4949 Great America Parkway (APN #104-43-042) – Hilton Hotel site
 - Tasman Drive and Great America (APN #104-43-051) – Theme park parking
 - **Gateway parcels 1 – 3 (APN #104-01-099, #104-01-100, #104-01-101) – Great America Parkway and Yerba Buena Way**
 - 1350 Hope Street (APN #097-08-053) – Child care center
- **After June 30, 2011** – The total loan obligation for the Gateway properties (with interest) was subsequently listed on the EOPS and first ROPS at a value of \$88.9 million, including future interest at 11%. This was disallowed in the ROPS certification process as an enforceable City-RDA agreement.

Discussion:

H&S §§ 34171(d)(2) and 34178(a) state that agreements between a city and an RDA are not “enforceable obligations” and are not binding on Successor Agencies after January 31, 2011. However, absent this provision, we would still find the 2000 Cooperation Agreement and the

2005 Amendment No. 1 to the Cooperation Agreement invalid and unenforceable because they do not constitute a “legally binding agreement or contract that is not otherwise void as violating the debt limit or public policy,” as stated in H&S § 34171(d)(1)(E).

H&S § 34167(a), which describes the policy rationale for providing a narrow definition of enforceable obligations, is instructive, stating:

This part is intended to preserve, to the maximum extent possible, the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools. It is the intent of the Legislature that redevelopment agencies take no actions that would further deplete the corpus of the agencies’ funds regardless of their original source. All provisions of this part shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.

Far from meeting this intent, the 2000 Cooperation Agreement and the 2005 Amendment No. 1 to the Cooperation Agreement, in conjunction with the March 8, 2011, Assumption and Assignment Agreement, would extend for many years the transfer of funds to the City of Santa Clara from the Successor Agency pursuant to these agreements, at the expense of the local school district, the local community college district and other taxing entities. Specific problems with the Santa Clara Gateway transactions are described in the remainder of this section.

First, because the City Council and the RDA Board were one and the same, such interagency transactions must show a legitimate business need and/or consideration to both parties. The consideration provided to the City in the 2000 Cooperation Agreement consisted of all future rents from Parcels 1-3 in perpetuity. This, on its face, is unreasonable and would never be found in an arms-length transaction.

In addition, when the 2000 Cooperation Agreement was amended in 2005, there was neither a legitimate business interest nor any additional consideration to the Agency in this transaction. The amendment solely favored the City, in the following ways:

- **Property Valuation and Debt Obligation**: In signing the 2005 amendment, the Agency was retroactively agreeing to the highest appraised value of the three parcels during the height of the dot-com market in 2000, when vacancy rates were at a low of 5.8%. Moreover, the City had only transferred one of the three parcels at that time. The 2005 amendment also was executed after the dot-com bust when vacancy rates were nearly three times higher (17.7% in 2004). A discussion on the over-valuing of this obligation will follow in the analysis section.
- **Loan Terms**: The loan was set at an exorbitantly high rate of interest at the time (11%). By comparison, LAIF rates were 2.85% for that quarter (Q2 of 2005). The 2005 amendment actually allowed the highest rate allowed by law of 12% and the City argues that they only imposed 11%. We nonetheless believe that the rate was exorbitant.
- **Instant Accumulation of Debt for Prior Interest**: The loan amortization was made retroactive to the date of property transfer, February 16, 2001. In so doing, the City was retroactively imposing \$11.1 million of interest annually during three years of zero rent

payments and two years of actual rent payments (\$3.6 million for FY 2004 and 2005) as called for in the 2000 Cooperation Agreement. The net effect of this was to increase an essentially zero balance obligation based on the original agreement to an overstated \$142.2 million loan obligation value as of June 30, 2005, as shown in amortization schedules obtained from the City. This balance has since carried forward to the current loan balance. What makes these terms even more unreasonable is the fact that, at that time, the City had only transferred over Parcel 2 to the RDA. The City still owns Parcels 1 and 3, yet was charging the RDA 11% interest on the highest possible appraised value of all three parcels.

- **Transfer of Other Revenues to the City:** As previously stated, the 2005 amendment allowed the RDA to use other RDA funds not related to the Gateway property to pay the City, and imposed an obligation of \$11.1 million on such transfers (based on the \$101 million high-end valuation for all three parcels and the 11% interest rate). Consequently, rent transfers solely from Gateway Parcel 2 of \$3.6 million annually increased to \$9.6 million and included rent transfers from two other properties. The most notable source of payment was the transfer of rent for Great America amusement park of \$5.3 million annually for which the Redevelopment Agency had full title and to which the City had no prior claims to the rental stream. The second transfer of rents for debt payment was the Hilton land lease for which the City had an existing claim to rents through a cooperation agreement. City staff could not answer why this was credited against the loan. We have eliminated this from the payments in our recalculation of the loan balance.

Second, as previously stated, no independent entity would enter such a one-sided transaction as the RDA did in signing the 2005 Cooperation Agreement Amendment No. 1. We can find no legitimate business purpose for entering into such a retroactive amendment from the RDA's perspective.

From the City's perspective, however, the purpose was clear: to provide an annual stream of payments from the RDA to the City general fund of up to \$11.1 million. Additionally, any unpaid amounts were added to the RDA's growing debt obligation to the City. As a March 8, 2011 staff report justifying the transfer of the Gateway and other properties from the RDA to the City stated:

Currently under a cooperation agreement between the Redevelopment Agency and the City, the annual lease payments from these properties go to the City and are an important source of revenue for the City's General Fund Budget.

Finally, we believe that this rent transfer arrangement is against public policy and shows how the City played the system using RDA resources. Consequently, we believe that the 2005 Cooperation Agreement Amendment No. 1 is void and unenforceable as it was not for legitimate redevelopment purposes. Moreover, it is invalid under H&S §§ 34171(d)(1)(E) and 34171(d)(2). This raises the question of whether the original 2000 agreement should be reapproved by the Oversight Board, if and when the City receives a finding of completion. If the agreement is to be reapproved, the questions are: (1) what should be the terms of the agreement (e.g., purchase price, interest rate); and (2) based on these terms, does the Successor Agency still owe the City any money, or does the City owe the Successor Agency a refund for amounts previously overpaid by the RDA?

Land Value:

While there was no value expressly assigned to the Gateway property in the 2000 Cooperation Agreement, an appraisal was done that formed the basis of the other agreements involved in the transaction. Appraisals for commercial property generally denote land value on a rate per square foot. The 2000 Sedway Group appraisal report shows the total land values for parcels 1-3 based on highest and best use ranging from \$72 and \$101 million and converts this to \$41 to \$58 per square foot. However, per Exhibit A, this was for all three parcels and allocating values per square foot based on lease revenue results in a Parcel 2 range of \$41.83 to \$58.68. Keep in mind that this was at the height of the dot-com boom when vacancy rates were at 5.8%. By fiscal 2004 when actual rents commenced, those vacancy rates had tripled to 17.7%.

In 2004, the County Assessor established initial land values based on the possessory interest of Irvine Company in Parcel 2. This was based on the \$3.6 million in rents at the time and this resulted in land value of \$30 per square foot. This amount is comparable with sales during that time period in that area which suggest a land value of \$26 to \$30 per square foot.

The value of the property as of the February 16, 2001 transfer date, per the Sedway Group report (developed a year earlier in 2000) was examined as a basis to base a value. Based on the value ranges stated in that Sedway report, it could be assumed that, had the Santa Clara Redevelopment Agency been in a true arms-length relationship with the City, it would have negotiated for the lower end of the range and, conversely, the City would have argued for the higher end of the range. Assuming a fair process, the outcome would have been within the range of \$37.5 million and \$52.6 million for Parcel 2 only (see Exhibit A). However, all other indications are that this appraisal is an outlier and when the loan was established in 2005 and retroactively reinstated, the state of the economy would not support the higher end of the ranges. Lastly, we look at the Keyser Marston's informal appraisal (Exhibit D). This capitalizes the guaranteed rent of \$3.8 million at a 9.5% rate return for a value of \$45 a square foot, for total property value of \$40,000,000.

We are not appraisers, and absent a formal appraisal of the Gateway Parcel 2 based on comparable commercial land values and sales in 2005, we nonetheless have to establish a reasonable value to determine the appropriate present loan value. This is because the total value on all three parcels was clearly in error in establishing the loan and must be corrected. We believe that the high end value represented in the Sedway 2000 analysis was the outlier and was not financially relevant in 2005 when the loan was established, if ever. While we believe that Keyser Marston values are higher than other indicators, we are accepting the Parcel 2 \$40 million value as a more reasonable value, especially since the City itself accepted this value to pay off the loan. Additionally, it fits within ranges of the Sedway appraisal. However, should the Successor Agency wish to establish an independent value for settlement of this issue, we would encourage an independent appraisal. In our research, we noted several comparable sales in the area during the period in question that could be used by a qualified independent appraiser.

Current Loan Value:

The City has been very careful in stating that this obligation is not a loan; however, the facts speak for themselves. In 2001, Parcel 2 was conveyed from the City to the RDA and the City essentially provided financing to the RDA for the property purchase. The original 2000

Cooperation Agreement did not assign a property value and the financing mechanism was for the RDA to transfer all future rents to the City when received. However, the subsequent 2005 Amendment No. 1 clarified that this was intended as a loan from the City to the RDA akin to a mortgage, and established the principal amount, erroneously as we have previously discussed, at \$101 million. In fact, a staff report accompanying the 2005 Cooperation Agreement Amendment states:

An additional advantage to amending the Cooperation Agreement is to clarify in one agreement that ground lease revenues generated from the Irvine Company, the Great America Theme Park, Westin Hotel, Techmart, Tasman Hotel and future RDA projects will continue to flow from the RDA to the City.

H&S § 34171(d)(2) states that an “enforceable obligation” does not include “any agreement, contract or arrangement between the city . . . and the former redevelopment agency.” However, H&S § 34191.4(b) states that, upon the Successor Agency obtaining a finding of completion from DOF, city loans may be restored “provided that the oversight board makes a determination that the loan was for legitimate redevelopment purposes.” It further provides that subject loans must be recalculated at LAIF rates from inception. Exhibit B calculates what the loan would be from inception (February 16, 2001 date of transfer of Parcel 2) at the estimated land value of \$40,000,000 and based on LAIF rates. Additionally, we have reduced loan payments to exclude Hilton rents as previously discussed. *Our recalculation shows that the City has been overpaid by \$8,451,343 as of January 31, 2012.* This represents prior overpayments on the loan even before the City reduced the loan for \$137 million in March 2011 an alleged payment for certain properties that were transferred to the City. We are therefore characterizing this as a receivable in that amount on the Successor Agency’s books due from the City of Santa Clara. Furthermore, this shows that there was zero consideration paid by the City to the Redevelopment Agency for the transfer of the properties.

In addition, we are establishing an additional receivable for certain rents received by the City General Fund from March 8, 2011 through January 31, 2012. Exhibit C, attached, estimates the rent amount only for Parcel 2 and Great America to be \$8,332,502 as of January 31, 2012. However, this is an estimate and does not include all rents received by the City’s General Fund subsequent to January 31, 2012, until the date of final settlement, plus interest. The Successor Agency Oversight Board will need to direct the Successor Agency to provide a full accounting of all rental payment and interest due upon settlement for both the Gateway property and all other properties covered in Assumption and Assignment Agreements for properties unallowably transferred on March 8, 2011.

Misrepresentation of Material Facts:

We find the basic facts of the Cooperation Agreement, as amended in 2005, disturbing in the way it was used to flow revenue to the City from other project area property rentals. What is perhaps even more disturbing, however, is the fact that in 2011 the City misstated facts which made it appear that all three parcels had been transferred to the RDA and then were returned to the City.

The original intent of the 2000 Cooperation Agreement was for the City to transfer all three parcels once certain conditions had been fulfilled in the DDA between the RDA and the Irvine

Company, and the only compensation the City was to receive for the parcels was the rental revenues paid by the Irvine Company as those rental revenues began to flow in accordance with the terms of the DDA and as ground leases were subsequently entered. As of 2005, the RDA and the Irvine Company had only executed a lease for Parcel 2, so the City had not yet transferred parcels 1 and 3. County Assessor records clearly show that parcels 1 and 3 have been in continuous City ownership since 1973.

In 2005, the City and RDA re-wrote the deal to set up a retroactive loan based on the value of all three parcels as a vehicle to transfer additional rents and revenues from the RDA. The City knew at that time that only one parcel had actually been transferred and that, under the original 2000 agreement, the RDA's only obligation at that point was to transfer rental revenues to the City from Parcel 2. The staff report for the 2005 Cooperation Agreement Amendment states:

Among the advantages of this amendment would be the authority of the RDA to pay the amounts due from the RDA to the City from multiple RDA revenue sources. Under the current Cooperation Agreement and the current rent payment status, the RDA rent payments from the Irvine project alone would not be sufficient to repay the City (loan) within the remaining time allowed in the redevelopment project (Year 2024). The unanticipated diminished revenue stream is because the contemplated Irvine project has not developed at the pace originally estimated, and thus the Irvine project has not been leased at the level originally anticipated. Rents have not materialized to the extent needed for the RDA to repay the City.

Since 2009, the RDA's annual CAFRs have disclosed that all 42-acres of Gateway were transferred to the Agency in justification of the \$101 million loan. These were management's representations to the independent CPA, and ultimately the public, and management had to know full well that this was an incorrect representation given that only Parcel 2 had been transferred.

In 2011, the City, in a resolution and a property conveyance agreement, listed all three parcels as being owned by the RDA and being transferred back to the City and then credited the loan with a \$137 million value, which City finance staff stated was the value of all transferred properties. The Keyser Marston estimate on which this was based listed four other properties as credits against the loan. In fact, while this document indicates that parcels 1 and 3 were owned by the City, it nonetheless shows the value of those parcels was included in the \$137 million that was deducted against the loan. However, since the loan as recalculated had been overpaid, this represented zero consideration for the transferred properties.

In total, all of these misrepresentations suggest that the City was attempting to mask the previous overstated loan transaction with the RDA.

Conclusion:

Based upon the procedures performed and the analysis described above, we have determined that the City Council of the City of Santa Clara, acting on behalf of both the City and the RDA, approved the 2005 amendment to the 2000 Cooperation Agreement which artificially inflated the property value and served as a mechanism to transfer unrelated lease revenues from the RDA to

the City General Fund. This solitary act in 2005 resulted in a zero balance loan automatically increasing to a \$142 million loan; this, for the transfer of Parcel 2, worth an estimated \$40 million. This \$102 million overstatement represented \$61 million in overstated principal and \$41 million in retroactive interest.

The City argues that this past transaction is irrelevant to the AUP and should be ignored, yet this very loan was a basis of an alleged offset of \$137 million as consideration for transferred properties. As previously stated this offset against an erroneously inflated loan balance represented zero consideration to the RDA for the property transfers. These transfers are invalid according to the provisions of H&S § 34167.5. All properties and all associated rents (plus interest) must be returned to the Successor Agency, and an additional receivable is established for the overpayment on the Gateway loan.

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CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

SECTION 6: LIABILITIES

General: As previously explained in Section 2, the City of Santa Clara, acting as both the RDA and the Successor Agency, has not listed any contractual obligations on its EOPS or ROPS. Instead, it attempted to list items transferred as appropriations to the City via 2011 Cooperative Agreements which are not valid enforceable obligations under the law and themselves constitute void asset transfers. We have attempted to determine which items detailed in Sections 7 and 8 are Successor Agency liabilities and have shown these on Schedule 3, Section 4. However, the payment of such items will be subject to the Successor Agency obtaining Oversight Board and DOF approval to add such items to future ROPS.

Specific Liabilities

Per H&S § 34171(d)(1)(A), RDA bond obligations are enforceable obligations. The table below summarizes the tax allocation bonds issued by the RDA, all of which were determined to be enforceable obligations under the statute:

Summary of Bond Debt Obligations		
Item Number	Description	Amount
1	Bank of New York – 1999 Tax Allocation Bonds Series A	\$ 46,934,056
2	Bank of New York – 1999 Tax Allocation Bonds Series B	\$ 18,200,672
3	2002 Tax Allocation Refunding Bonds	\$ 17,541,462
4	Bank of New York – 2003 Tax Allocation Bonds	\$ 62,282,000
5	Bank of New York – 2011 Tax Allocation Bonds	\$ 63,375,131
Total Bond Debt Obligation		\$ 208,333,321

<u>Item Number</u>	<u>Description</u>	<u>Outstanding Liability</u>
6	Bank of New York-2002 Series B COPs (Agency Share)	<u>\$0</u>

This debt was issued by the Sports and Open Space Authority of the City of Santa Clara, secured by future lease payments to be made by the City of Santa Clara on a

lease of the City's golf course property from the Sports and Open Space Authority. This debt was used to refund prior debt issues from 1993 and 1989, in order to take advantage of lower interest rates. According to documents provided by City staff, proceeds from the 1989 debt issue, which was partially refunded by the 1993 debt issue, were used to build three projects within the North Bayshore Redevelopment Project Area. Because the cost of those three projects amounted to 9.849 percent of all projects funded by that debt issue, the former Redevelopment Agency entered into a 1993 reimbursement agreement to pay that share of the debt service on the previous debt issues. At the time of the issuance of the 2002 Series B COPs, the redevelopment agency amended the 1993 agreement by resolution, agreeing to continue to pay the aforementioned percentage of debt services payments for the new bond issue.

The outstanding balance on the debt issue is \$1,397,997.59 (inclusive of principal and interest), as of January 31, 2012; was verified by audit staff by taking the outstanding balance on the debt issue, taken from the debt service schedule in the Official Statement for the debt issue, and calculating the proportionate share attributable to the redevelopment agency. The use of the debt service schedule was verified by obtaining from City staff a September 15, 2011 journal voucher entry from the City's accounting system, reflecting the 2011 payment from the redevelopment agency to the City's debt service fund for its share of the 2011 debt service payment on this debt. This analysis was conducted as part of the review of the first Recognized Obligation Payment Schedule submitted by the City as Successor Agency to the former Redevelopment Agency.

The Auditor-Controller of the County of Santa Clara initially determined that this debt was not an enforceable obligation of the Successor Agency, as defined in H&S § 34171 (d)(1)(A). This determination reflects the fact that this debt was not an "indebtedness obligation" of the former redevelopment agency, as defined in H&S § 34171(e), "bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency . . . to third-party investors or bondholders to finance or refinance redevelopment projects undertaken by the redevelopment agency in compliance with the Community Redevelopment Law," because the bonds were not directly issued by the Agency.

Subsequent to this determination, the Oversight Board for the Successor Agency voted to approve the City and the Successor Agency re-entering into a Reimbursement Agreement for the Successor Agency to continue to pay the former Redevelopment Agency's proportionate share of this debt, and to amend the Successor Agency's ROPS to reflect that action.

However, subsequent to the reinstatement by the Oversight Board, AB 1484 added H&S § 34177.3 to clarify that Oversight Boards lacked authority to enter into new enforceable obligations. DOF subsequently denied this on the third ROPS. The Successor Agency has requested a meet and confer on this item but has not received a final determination.

On February 28, 2011, the Santa Clara Stadium Authority, a joint powers agency comprised of the City of Santa Clara and its Redevelopment Agency, approved a Cooperation Agreement, as did the Redevelopment Agency, for the Redevelopment Agency to assist the Stadium Authority in the development of a publicly-owned professional sports stadium, to be built on 22 acres to be leased by the Stadium Authority from the City.

Under that agreement, the Redevelopment Agency agreed to pay to the City \$1.6 million, which was estimated to be approximately one-half of the City development fees to be paid in connection with construction of the stadium. The Redevelopment Agency also agreed to pay up to \$40 million, not including debt service and other financing costs, toward development of the stadium, paying for them from the Agency's future property tax increment. Of the \$40 million, the Agency was expected to provide at least \$4 million in then-available funds not needed for other purposes, and to provide the remainder from future tax increment, a future bond issue, or other sources. To the extent the monies from these sources were not sufficient to provide the funds available for the project, a private firm, Forty Niners Stadium, LLC, was to advance the monies needed to the Stadium Authority, to be repaid from future property tax increment that the Redevelopment Agency would pay the Stadium Authority, with interest accruing on the unpaid balance at an annual rate of up to 8.5 percent.

As part of its first ROPS, the Successor Agency estimated the remaining overall obligation under the agreement with the Stadium Authority at \$30,249,620, based on the following expenditures reported by the City of Santa Clara Finance Director, who also serves this role for the Stadium Authority, and did so for the Redevelopment Agency:

- \$4,000,000 of available Redevelopment Agency funds provided to the project. The City documented payment of those funds through a journal voucher document provided to the audit staff.
- \$3,053,380 in consulting costs, meeting expenses, legal notices, postage and other services and supplies costs, not including City staff time, expended on the stadium project by the Redevelopment Agency. The Finance Director provided a series of spreadsheets tabulating these costs, starting in the 2006-07 Fiscal Year, and continuing through the end of the 2010-11 Fiscal Year. Because of the expedited schedule for this review, audit staff did not review individual invoices, payroll journal entries or other documentation related to these costs.
- \$2,697,000 in proceeds from the Redevelopment Agency's 2011 Bayshore North Redevelopment Project Area Tax Allocation Bonds, which are expected to be spent on the stadium project. As discussed previously in this report, those bonds were determined to be an enforceable obligation of the former Redevelopment Agency. A pledge to set aside these funds was included in a December 13, 2011

Disposition and Development Agreement between the Stadium Authority and Forty Niners Stadium, LLC and the Predevelopment funding agreement entered into on March 8, 2011. However, as noted elsewhere in this report, the use of these 2011 bond proceeds is restricted.

Original Stadium Obligation	\$40,000,000
Less: \$4,000,000 Available funds	(4,000,000)
Less: \$3,053,380 in project expenses	(3,053,380)
Less: \$2,697,000 from 2011 bonds	(2,697,000)
Remaining Total Obligation	\$30,249,620

The agreement between the former Redevelopment Agency and the Stadium Authority called for a maximum \$40 million contribution, exclusive of debt service and financing costs, and provided for the private firm also participating in the stadium development to advance any shortfall to the former Redevelopment Agency's contribution. At the time of the first ROPS, the City's Finance Director reported that such an advance would be made, for repayment according to a proposed promissory note and debt service schedule. This schedule assumed that the proposed advance will be repaid over 16 years, with interest accruing at an annual rate of 5.73 percent, requiring a total repayment by the Successor Agency of \$52,468,802.21 (inclusive of principal and interest). The first payments of the advance were not required to be made by the Stadium Authority until November 2016, under the proposed debt service schedule.

As this agreement is between the RDA and Stadium Authority, it appears to fall within H&S §§ 34171(d)(2) and 34178(a) and is not enforceable. The enforceability of this agreement is the subject of current litigation.

8 Land Lease-Agency/City-Parking Lease \$0

In February 1974, the City of Santa Clara entered into a ground lease with Marriott Corporation for land to be used for parking to serve the Great America theme park. As discussed previously in the land-transfer section of this report, Marriott in June 1985 assigned this leasehold to the Sports and Open Space Authority, which in turn assigned it to the former Redevelopment Agency, all in conjunction with the acquisition of the theme park by the Authority and Agency.

The rent for these pieces of property was established by the original 1974 lease, with the value set at \$20,000 per acre initially, escalating through the maximum 55 years of the lease to a value of \$45,000 per acre. According to the notes to the City of Santa Clara's June 30, 2011 Comprehensive Annual Financial Report, the Redevelopment Agency was required to make lease payments for the land to the City's General Fund and electric utility. The total obligation for future lease payments, \$2,817,266, and the six-month obligation of \$134,694, for the annual payment due to the City on February 1, 2012, were also reported in the financial statement, and were also provided to audit staff in a spreadsheet provided by City

staff calculating the lease payments due based on the value of the properties as taken from the 1974 agreement.

The Successor Agency initially reported this agreement as a liability on its initial ROPS, but sought subsequently to remove it, indicating that it did not believe the Successor Agency needed to pay these lease payments. As noted in the Land section, the lease agreement between the City and the former Redevelopment Agency is arguably void under the Redevelopment Dissolution Law, specifically H&S §§ 34171(d)(2) and 34178(a), and the lease revenues received from the current theme park operator for use of this land, and passed on to the City by the former Redevelopment Agency must ultimately be returned by the Successor Agency under H&S § 34167.5.

9-10 Administrative Cost Allowance \$518,448

The amounts that were listed as administrative costs were not allowed on the ROPS except to the extent of the permitted 5% administrative allowance of \$518,448, for ROPS I. All subsequent administrative allowances are subject to the permitted cap and must be approved by the Oversight Board.

11 Enforceable Obligations - detailed in Section 7 \$4,546,145

As described in Section 7, these appear to be enforceable obligations but are not listed on the EOPS or ROPS and therefore the City does not have authority to make payments. The City will have to work with DOF to resolve this problem.

12 Enforceable Obligations Housing – detailed in Section 8 \$15,544,275

As described in Section 8, these appear to be enforceable obligations but are not listed on the EOPS or ROPS and therefore the City does not have authority to make payments. The City will have to work with DOF to resolve this problem.

13 Promissory Note \$4,575,386

On July 14, 1998, the City of Santa Clara and the Redevelopment Agency entered into a loan agreement, memorialized by a promissory note from the Redevelopment Agency to the City on that date. In the promissory note, the Agency promised to pay the City principal of \$6,853,959, plus interest payable at the same rate of interest earned by the City on its investment portfolio. The loan was to be repaid by the Agency from property tax increment revenues available after payments were made on other existing indebtedness of the Agency, and after the 20 percent of tax increment required to go to affordable housing projects was set aside. The obligation under the promissory note was reaffirmed in an August 31, 1999 amendment to the note which amended the description of the redevelopment tax increment funds that would be available to repay the note.

However, per H&S § 34171(d)(2), this agreement is not an enforceable obligation. H&S § 34191.4(b)(2) would permit the Oversight Board to reenter into this

agreement upon: (a) the State Department of Finance issuing a "finding of completion"; and (b) the Oversight Board making certain findings. However, the same code section also states that the loan must be recalculated from origination, at the interest rate earned by funds deposited into LAIF. The recalculated amount is \$1,850,299 as of January 31, 2012, including interest of at LAIF interest rates, starting from the inception of the loan.

We have listed this loan on Schedule 3, as an amount that may be deemed enforceable upon a finding of completion and Oversight Board approval. However any amounts payable to the City should be offset by the overpayment on the Gateway (Yerba Buena) loan detailed in Section 5.

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CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

Section 7: Transfers to City Capital Project Fund

On February 22, 2011, the City and the Redevelopment Agency entered into a Cooperation Agreement to transfer appropriations to the City for various projects. Subsequently on March 8, 2011 and thereafter, asset balances described in the Transfer Section of this report (Section 4) were transferred. The remainder of this section assesses information provided by City of Santa Clara staff for the 15 capital project appropriations transferred from the former Redevelopment Agency Bayshore North to the City capital projects funds to determine if valid enforceable obligations or 3rd party contracts were in existence by June 27, 2011, and if amounts were paid by August 16, 2011, which would permit an offset to the return assets transferred to the City. Where such enforceable obligations exist but were unpaid by August 16, 2011, the obligation may be permitted to be included on future ROPS. We have listed such obligations separately on liability Schedule 3. The remaining balance of transferred assets must be returned to the Successor Agency.

The City has listed the total Cooperation Agreement project transfers totaling \$96,181,327 on its EOPS on three line items, with no individual payment shown to specific contractors or for specific obligations on the assumption that the City had the authority to make these payments. However, after January 31, 2012, all agreements between an agency and the city that created it were invalidated and are not considered as enforceable obligations. Additionally, the Cooperation Agreements, all of which were entered into after January 1, 2011, are themselves void asset transfers under H&S § 34167.5. Further, H&S § 34167(h) states that "the agency shall not make a payment unless it is listed in an adopted enforceable obligation payment schedule." Since no individual payments have been listed on the EOPS or ROPS and since all payments were subsequently made by the City, there will be no allowed offsets to transferred cash for payments made after August 16th, the date that the City of Santa Clara adopted its original EOPS.

Lastly, the City could not provide data to determine if certain the individual contracts bundled under the project appropriations detailed in this section had actual expenditures between March 8, 2011 and August 16, 2011. Absent this data, it is not possible to determine if any credit would be allowed as offsets for cash transferred from the Agency. The burden of proof is on the City to develop a methodology that would be acceptable to the State Controller and DOF for possible allowed expenditures during this period, which may provide an offset to transferred bond proceeds. For purposes of this audit, offset credits would have been allowed only for payments that may be verified as having been made during this period.

Each project will be discussed below and the basis for our finding will be explained. A summary follows:

City of Santa Clara Redevelopment Agency
Transfers to Redevelopment-North Bayshore Project Area Capital Fund

Reference	Item/Project/Activity	Amount Per Cooperative Agreements	Authorized Expenditures (Permitted Cash Credits)	Amount to Return	Basis	Enforceable Obligations Subject to Amended EOPS/ROPS
A	North Bayshore Area Library	\$19,800,000	\$ -	\$19,800,000	No pre-June 28, 2011 RDA enforceable obligation. Design contract was with City, not RDA.	\$ 1,193,754
B	Convention Center Parking Garage	\$ 183,621	\$ -	\$ 183,621	Contract with City, not RDA. Contract expired pre-transfer.	\$ 16,000
C	Tasman Drive Garage	\$40,690,411	\$ -	\$40,680,935	All but one contract with City, not RDA. Obligation was entered pre-effective date of dissolution law.	\$ 1,882,930
D	Youth Soccer Park	\$ 486,901	\$ -	\$ 486,901	No evidence provided of enforceable obligation to third party.	\$ -
E	Golf Course Perimeter Drainage	\$ 312,683	\$ -	\$ 312,683	No evidence provided of enforceable obligation to third party.	\$ -
F	San Tomas Aquino Creek & Spur Trail	\$ 794,008	\$ -	\$ 794,008	Seven contracts with unpaid balance on June 15 are considered as obligations.	\$ 184,164
G	Ulistac Natural Area Wetland Mitigation	\$ 318,448	\$ -	\$ 318,448	Three contracts with City, not RDA. Remaining obligation is prior to effective date of dissolution law.	\$ 36,211
H	Yerba Buena Site Development	\$ 220,532	\$ -	\$ 220,532	No evidence provided of enforceable obligation to third party.	\$ -
I	Convention Center Ballroom Expansion and Fire Alarm Upgrade	\$ 3,027,302	\$ -	\$ 3,027,302	4 of 7 contracts with City, not RDA. Obligation permitted on 3 contracts prior to effective date of dissolution law.	\$ 1,102,511
J	Martinson Day Care Center	\$ 331,083	\$ -	\$ 331,083	Lease for facility terminable on 30-day notice. No other evidence of enforceable obligation to third party.	\$ -
K	Walsh Avenue Sanitary Sewer Impr	\$ 4,016,938	\$ -	\$ 4,016,938	All contracts with City, not RDA.	\$ 135,574
L	Yerba Buena Site Development Fees	\$ 1,000,000	\$ -	\$ 1,000,000	No evidence provided of enforceable obligation to third party.	\$ -
M	Major Refurbishment of Public Facilities	\$25,000,000	\$ -	\$25,000,000	No evidence provided of enforceable obligation to third party.	\$ -
Total Transfers		\$96,181,927	0*	\$96,181,927		\$4,546,145

*The amount spent between March 8, 2011 (the date of the cash transfer) and August 16, 2011 (the date of adoption of the EOPS) could not be determined from the records provided. The City will have to establish actual payments that may be an offset to cash transfers.

A North Bayshore Area Library Project

On February 22, 2011, the City of Santa Clara and the Redevelopment Agency entered into a Public Improvements Grant and Cooperation Agreement whereby the Agency committed \$19.8 million in funding for the City to use to build a new library and the City committed to constructing the library. Subsequently, on March 8, 2011, the former Redevelopment Agency Board of Directors approved the transfer of its capital projects, including the library project, to the City of Santa Clara. The library project is included among the appropriations transferred from the Bayshore North Project Redevelopment Fund to the City's Redevelopment Project Area Capital Improvement Fund. As discussed above, these agreements are invalid pursuant to H&S §§ 34167.5 and 34178(a).

Donation of the library site, located on Rivermark Parkway, was a condition of a December 5, 2000 Development Agreement between the City of Santa Clara, the State of California and Rivermark Partners, LLC for development of the former Agnews State Hospital property as residential and commercial development. That agreement did not require construction of the library, only donation of the site, and to our knowledge there is no legal, contractual or other requirement to actually build a library.

On January 31, 2012, the City of Santa Clara entered into a Library Development and Funding Agreement with the Santa Clara City Library Foundation and Friends ("Foundation"). That agreement provided that the Foundation would carry out the City's obligation to build the library under the February 22, 2011 agreement with the Redevelopment Agency.

The agreement includes the following language:

Foundation shall supervise and direct the performance of the construction of the Work, provided, however, foundation may agree to hire the City as the project manager to supervise the Work. Foundation may enter into one or more contracts with one or more third parties in connection with Work (collectively 'Third Party Contracts'), so long as the terms of such Third Party Contracts have been approved in advance by the City, the terms of such contracts meet the requirements of the City Codes and regulations, including any requirements related to public bidding. . . .

In consideration for the acceptance of the assignment of obligations set forth herein, the City agrees to reimburse the Foundation for its actual out of pocket costs and expenses incurred in such performance (including, but not limited to, costs of the Foundation's professional service advisor's fees, to include accountants, auditors, and attorneys) on a monthly basis, without withholding or retention, within 10 business days following billing therefore which reimbursement includes, but is not limited to, reimbursement of Foundation

staff time associated with services performed herein at the rate of Fifty Dollars (\$50.00) per hour.

The agreement further establishes a budget of \$18,013,801 for the project. The agreement provides: "The full amount of the Budget, including any amendments approved pursuant to this Agreement shall be paid entirely by the City and the City hereby pledges to the Foundation the Grant funds for such purposes." The agreement requires the budgeted amount to be deposited into an escrow account to be drawn on to pay project costs.

Accompanying the Development and Funding Agreement is a separate Construction Agency Agreement between the City and the Foundation under which "The Foundation desires to hire the City to act as its construction agent during the development of the Library." The Construction Agency Agreement further states:

City hereby unconditionally accepts the appointment made by the Foundation . . . and undertakes, for the benefit of the foundation, to manage and administer the development of the Library in accordance with this Agreement, as an independent contractor with and agent of and for the Foundation.

Requirements of the Construction Agency Agreement include the City managing and controlling the library site, overseeing all design professionals, maintaining cost records for the project, reviewing and certifying amounts due the general contractor hired to build the library, maintaining all books and records with respect to the development of the library, and all other aspects of the library construction.

In sum, the City, via the January 31, 2012 agreement, is contracting with the Library Foundation to carry out the construction project on its behalf, and the Foundation in turn is contracting back with the City to carry out the project on its behalf. This appears to be an attempt to create an agreement requiring the construction of the library with a third party in an attempt to save the agreement from being deemed invalid pursuant to H&S § 34171(d)(2). The subsequent agreement with the Foundation does not save the contract from invalidity because the agreement with the Foundation was not entered into prior to June 28, 2011 (enactment date of ABX1 26). Therefore, neither the RDA nor the City was "contractually committed to a third party for the expenditure or encumbrance of those assets" per H&S § 34167.5 when the redevelopment dissolution law took effect.

Once ABX1 26 became law, there was no question that the agreement between the Redevelopment Agency and City was invalid and there was no reasonable basis for any third party (e.g., the Foundation) to rely on that agreement. Furthermore, the agreement between the City and Foundation is void as violating public policy per H&S § 34171(d)(1)(E) because its purpose was to evade the purpose and intent of redevelopment dissolution law.

As discussed elsewhere in this report, the City reported \$463,375 construction-in-progress on the library project as of January 31, 2012, and the agreement with the Library Foundation notes that as of the time of that agreement, a parking lot for the library had been constructed pursuant to the agreement for donation of the site with Rivermark

Partners. There was also, at that time, the following existing contracts related to the project:

- An agreement for design services between the City, not the former Redevelopment Agency, and Steinberg Architects. This agreement was for a maximum expenditure of \$1,479,425. The contract was entered into December 18, 2009, with a December 31, 2014, termination date, and the ability of either side to terminate without cause on 30-days' notice. Two spreadsheets provided by City staff indicated that the outstanding balance on this contract was \$1,193,754 as of June 15, 2011, just prior to the effective date of the Redevelopment Dissolution Law, and was \$1,187,747 as of January 31, 2012, the last day the former Redevelopment Agency was in existence.
- An agreement between the City, not the former Redevelopment Agency, and Skyline Engineering, Inc. for roof design review on the library project. This agreement was for a maximum expenditure of \$19,480. The contract was entered into February 29, 2012, with a termination date of December 31, 2014, and the ability of either side to terminate on 30-days' notice. The City's contract balance spreadsheets do not list this contract, since it was entered into after the date the former Redevelopment Agency dissolved. Based on the contract date, this contract cannot constitute an enforceable obligation of the former Redevelopment Agency, and cannot be paid with its funds.
- An agreement between the City, not the former Redevelopment Agency, and Cornersone Earth Group, Inc. for geotechnical analysis and engineering related to the proposed library site. This contract was for a maximum expenditure of \$29,040. The contract was entered into July 7, 2011, with a termination date of April 31, 2014, and the ability of either side to terminate it on 30-days' notice. The City's contract balance spreadsheet shows that as of January 31, 2012, this contract had a remaining balance of \$21,144.

While all three of these agreements have the City, not the former Redevelopment Agency, as signatory to the contract, all three were accompanied by memos prepared by City staff stating that the intent was to fund these contracts from redevelopment funds. Memos for the Steinberg and Cornerstone contracts explicitly state this, while the Skyline contract memo notes that the money is coming from the Bayshore North Project Area Capital Improvement Project Fund, which received all of its money via a transfer of funds from the former Redevelopment Agency in March 2011.

The transfer for the library project comprised up to \$19,800,000 of the appropriations transferred from the former Redevelopment Agency to the City. This transfer appears to violate the requirements of the Redevelopment Dissolution Law as it relates to transfers. These assets must be returned to the Successor Agency. It should be noted that the architectural agreement, among several agreements discussed further elsewhere in this report, allowed for termination without cause with 30-days' notice. The remaining balance on the architectural contract, which was entered into on December 15, 2009, totaled \$1,193,754 as of June 15, 2011, the nearest date information is available to the impermissible March 8, 2011 transfer of project funds from the former Redevelopment Agency to the City. The other two contracts were executed after the date of the transfer and therefore were not entered into by the Agency.

B Convention Center Parking Garage Modification

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$183,621 in appropriations for a structural upgrade to the existing parking garage at the Santa Clara Convention Center, which serves the Convention Center itself, and the adjoining Hyatt Hotel and Techmart office complex. This project was also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the cash transferred from the Agency's Bayshore North Project Redevelopment Fund to the City's Redevelopment Project Area Capital Improvement Fund.

City staff provided, as evidence of an enforceable obligation related to this project, a \$342,323 contract with Fairway Painting Associates for concrete and roof coatings and maintenance for both the parking garage and the Lafayette Street Rail Road Pedestrian Overpass. According to a City staff memo, \$196,666 of the contract was to be paid from an account established for Convention Center Parking Garage Modification. This contract was approved by the City Council on April 30, 2009, with an expiration date of December 31, 2009, and no evidence of further extension. The contract could be terminated with 30 days' notice. The signatory to the contract was the City of Santa Clara, not the former Redevelopment Agency. As of both June 15, 2011 and January 31, 2012, the balance on this contract was \$16,000 indicating that no payments were made after June 30, 2011. However, as previously mentioned we are considering City agreement entered before January 1, 2011 as possible enforceable obligations. Therefore, \$16,000 is considered an enforceable obligation that may be included on a future ROPS for payment.

C Tasman Drive Garage

The February 22, 2011 Cooperation Agreement reports project appropriations for this project totaling \$40,690,411. This project is under construction on a site just west of the existing Convention Center property, and adjacent to the City's golf course and tennis complex. A review of property records indicates that the project was being constructed via an easement provided to the Redevelopment Agency by the City, which owns the garage site.

City staff contends that construction of the garage is mandated by its lease to the developer of a hotel in the adjacent Convention Center complex. Section 1431 of the original April 30, 1985 lease for the hotel site says the Agency is to provide 281 off-site parking spaces as of the date improvements on the site of the Techmart office building are completed. Section 1438 says at all times the hotel must be provided 2,000 parking spaces overall. The Supplement to Hotel Ground Lease, dated May 10, 1985, designates the area where the parking garage is now being built, as the site where the off-site parking would be provided, and agrees to execute an amendment to the lease, prior to completion of the hotel and the Techmart Center, identifying specifically where the 281 spaces would be located. That

agreement states that if Techmart is not built, the 281 spaces can be put elsewhere, most likely on property across Tasman Drive from the hotel. The May 10, 1985 Supplement also says that the goal is to provide 281 spaces at least as close to the hotel as the new garage is, and to be served by Tasman Drive.

The First Amended and Restated Supplement to Hotel Ground Lease, dated March 17, 1998, similarly designates the area where the garage is being built as the site where the off-site parking required by the original lease would be constructed, and notes that the RDA has an easement from the City to do so. The 1998 Supplement further states that the Agency has the right to relocate the 281 spaces from that site to any other area sufficiently convenient to the Convention Center so as to assure no conflict with the hotel's use of spaces assigned to it on the main Convention Center property.

Even if this obligation is still enforceable, the parking garage project transferred from the Redevelopment Agency to the City is significantly larger than needed to fulfill the obligation. Other documents obtained from the City indicate the completed garage will contain 1,812 spaces, and no documentation has been provided indicating what obligated the Redevelopment Agency to build a garage nearly 6.5 times larger than needed to meet the terms of the hotel lease. At a minimum, the Agency's enforceable obligation would be limited to costs necessary to provide 281 spaces in the new garage.

On March 15, 2012, the City Council also approved a Parking Rights Agreement with Forty Niners Stadium, LLC, providing that this garage would be part of the parking provided for a proposed football stadium. However, this agreement cannot obligate the former Redevelopment Agency, because it was approved after January 31, 2012, when the Redevelopment Agency ceased to exist under State law, which also prevented the Successor Agency from undertaking any new obligations of Agency funds.

It should also be noted that RDA issued bonds in 1999 (the 1999 Series A bonds), which were supposed to be used for a parking garage. The parking garage identified in the bond documents was described as being across Tasman Drive from the Convention Center complex, which was the alternative site described in the hotel lease documents. The project number indicates that the parking garage to be funded with the bond proceeds is the same as the garage now being built on the property just across the creek from the convention center. According to information received from the City on September 17, 2012, as of 6/30/12 there were unspent bond proceeds totaling \$21,896,003. These proceeds were from the 1999 Tax Allocation Bonds, Series A, and 1999 Tax Allocation Bonds, Series B. Therefore, had legal agreements been entered prior to June 27, 2011 this project could have been paid for with those bond proceeds; upon the Agency's receipt of a "finding of completion" it is possible that those bond proceeds could again be used for such purposes. City staff provided several contracts with consultants and a construction firm related to the garage construction. The City also provided information on contract balances as of June 15, 2011, the nearest information available to March 8, 2011, when appropriations for the project were transferred from the former Redevelopment Agency to the City, and as of January 31, 2012, when the Redevelopment Agency terminated. These include the following contracts:

International Parking Design, Inc.: This is the contract for design of the garage. The contract, last amended August 31, 2010, is with the City of Santa Clara, not the Redevelopment Agency, which precludes this contract being an enforceable obligation. As of June 15, 2011, the balance on this contract was \$435,984. As of January 31, 2012, the balance was \$322,479. This contract permits immediate termination with notice.

The Allen Group/Cooper Pugeda Management: This contract is for project management of the parking garage construction. The contract, last amended August 31, 2010, is with the City of Santa Clara, not the Redevelopment Agency, which precludes this contract being an enforceable obligation. As of June 15, 2011, the balance on this contract was \$1,437,470. As of January 31, 2012, the balance was \$1,211,794. This contract permits termination with 30-days' notice.

Cornerstone Earth Group: This contract is for geotechnical consulting on the garage project. The contract is with the City of Santa Clara, not the Redevelopment Agency, which precludes this contract being an enforceable obligation. As of June 15, 2011, this contract did not exist, not having been entered into until July 5, 2011, which is after the operative date of the Redevelopment Dissolution Law, which precludes this contract being an enforceable obligation. As of January 31, 2012, the balance on this contract was \$57,066. This contract permits termination with 30-days' notice.

H.T. Harvey and Associates: This contract is for burrowing owl surveys related to the garage project, and is a contract with the former Redevelopment Agency. It was entered into March 22, 2011, for \$16,000, after the date of the Cooperative Agreement between the City and Redevelopment Agency, and the date of the transfer of the garage project to the City. As of June 15, 2011, the balance on this contract was \$9,476. As of January 31, 2012, the balance was \$2,345. This contract permits termination with 30-days' notice.

Santa Clara Valley Water District: This May 17, 2011 contract with the City, not the former Redevelopment Agency, was for erosion repairs related to construction of a pump station needed for the garage project. There was no balance on this \$140,000 contract at either June 15, 2011 or January 31, 2012. This contract could only be terminated by mutual consent of the parties.

GHD Incorporated: This April 24, 2011 contract was for pump station design. The contract is with the City of Santa Clara, not the Redevelopment Agency, which precludes this contract being an enforceable obligation. There was no balance on this \$104,000 contract at either June 15, 2011 or January 31, 2012. This contract permits termination with 30-days' notice.

Howard S. Wright Contractors: This is the construction contract for the garage. The total contract, approved May 24, 2011, was \$24,127,807. The contract is with the City of Santa Clara, not the Redevelopment Agency, which precludes this contract being an enforceable obligation. There was no expenditure against this contract as of June 15, 2011. As of January 31, 2012, the balance on this contract was \$18,327,814, plus

retention payments held by J.P. Morgan Chase Bank in an escrow account of \$2,036,424, for a total balance of \$20,364,238. This contract has no termination clause.

In summary: The bulk of amounts shown on the following table, based either on the original contract amounts, the June 15, 2011 balances, or the January 31, 2012 balances, should be recovered by the Successor Agency, because the transfer of the garage project to the City was impermissible under the Redevelopment Dissolution Law and/or the contract obligations are liabilities of the City, not the RDA.

Summary of Tasman Drive Garage Contracts					
Contractor	Date	Original Amount	6/15/2011 Balance	1/31/2012 Balance	Contract Signatory
International Parking Design	8/31/2010	\$1,700,000	\$435,984	\$322,479	City
Allen Group/Cooper Puggeda Mgmt	8/31/2010	1,595,000	1,437,470	1,211,794	City
Cornerstone Earth Group	7/5/2011	185,700	N/A	57,066	City
H.T. Harvey & Associates	3/22/2011	16,000	9,476	2,345	RDA
Santa Clara Valley Water Dist.	5/17/2011	140,000	0	0	City
GHD Incorporated	4/24/2011	104,000	0	0	City
Howard S. Wright Contractors	5/24/2011	24,127,807	24,127,807	20,364,238	City
TOTAL Contract		\$27,868,507	\$26,010,737	\$21,957,922	

Based on the AUP work performed, it appears that the only possible allowable offset to the cash transfer was for a portion of the Harvey contract but we could not establish the portion expended before August 16. Three contracts were considered enforceable obligations totaling \$1,882,930. All other agreements were City contracts entered after January 1, 2011 and do not qualify as enforceable. Had the assets not been transferred and had the Agency legally entered these agreements before June 27, 2011, the bond funds described above would have been available and the expenditures could have been authorized on the approved EOPS and ROPS. This includes the \$24 million construction contract with Wright Contractors, which we consider to be a City responsibility.

D Youth Soccer Park

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City regarding Bayshore North Redevelopment Area projects reports appropriations for this project totaling \$486,901. This project was also included among the list of projects for which project responsibility and remaining appropriations was transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of projects expected to be financed from the \$66,049,074 transferred from the Agency's Bayshore North Project Redevelopment Fund to the City's Redevelopment Project Area Capital Improvement Fund.

City staff was asked to provide documentation for any enforceable obligations it believes exists related to this project, either requiring construction of the project, or contracts or other agreements with other entities to carry out the project. The City provided two documents. One was the official report for a 1999 bond issue for the former Redevelopment Agency, which listed the soccer park as one of the projects to be funded from that bond issue. The second was a portion of the former Redevelopment Agency's Fiscal Year 2001-02 financial statements, reporting a transfer from the General Fund to the Bayshore North Capital Projects Fund which City staff said was for this project. That statement also shows completion of construction in progress worth \$3,137,097 on that project.

Neither of these documents provides evidence of an enforceable obligation related to this project. The intent to spend money from a bond issue on a certain project does not require the former Redevelopment Agency to do so. Such funds, for example, could be used to redeem the bonds. Nor does a transfer of funds for a project commit the Agency to build the project. In fact, such a transfer, under the Redevelopment Dissolution Law, would constitute an agreement between the former Redevelopment Agency and the City that created the former Redevelopment Agency, and is specifically not enforceable and is also an asset transfer subject to claw-back.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Youth Soccer Park project must be reversed, with the funds returned to the Successor Agency.

E Golf Course Perimeter Drainage

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City for the City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$312,683 in appropriations for "storm drain system for golf course." This project was also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the funds transferred from the Agency's Bayshore North Redevelopment Project Area to the City's Redevelopment Project Area Capital Improvement Fund.

City staff provided a prior Cooperation Agreement between the former Redevelopment Agency and the City, dated August 17, 1999, which listed the drainage project among six projects the Agency would take on in conjunction with preparing the Santa Clara Gateway site for development. The Gateway project is discussed elsewhere in this report.

City staff also provided a copy of a Remediation Agreement from the year 2000 between The Irvine Company, the Agency and the City, which was an attachment to the April 25, 2000 Development and Disposition Agreement (DDA) between the Agency and The Irvine Company for development of the property. The Agreement and attached consultant reports are fairly technical, but indicate that drainage improvements were necessary to relocate two holes from the City's golf course from the Gateway site to a new site atop a portion of the City's former municipal landfill, which adjoins the Gateway site. The drainage

improvements, among other projects associated with the Gateway development, were to be carried out by the Agency in order to prevent any liquid waste associated with decomposition in the former landfill from crossing into the Gateway site via groundwater flows that could increase from irrigation of the new golf course holes.

Neither the 1999 Cooperation Agreement between the City and former Redevelopment Agency for the golf course drainage project, nor the February 2011 Cooperation Agreement for Bayshore North capital projects generally, constitute enforceable obligations under the Redevelopment Dissolution Law, because they were void agreements between the Agency and the City per H&S §§ 34171(d)(2) and 34178(a). And City staff provided no contracts for actual implementation of the drainage project.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Golf Course Perimeter Drainage project must be reversed, and the funds returned to the Successor Agency. The amount to be returned is \$312,683, which is the amount appropriated for this project in the February 2011 Cooperation Agreement between the City and the former Redevelopment Agency.

F San Tomas Aquino Creek Trail and Spur Trail

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City for the City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$591,569 in appropriations to complete a pedestrian and bike trail along San Tomas Aquino Creek in the redevelopment area, and \$202,439 for a spur trail connection to the City's Central Park. Both projects were also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011. Separately, the former Redevelopment Agency transferred land with a book value of \$18,984 for the trail as of March 8, 2011, based on a General Fixed Asset listing provided by City staff, and discussed elsewhere in this report.

City staff provided several contracts with consultants and a construction firm related to this project. The City also provided information on contract balances as of June 15, 2011, the nearest information available to March 8, 2011, when appropriations for the project were transferred from the former Redevelopment Agency to the City, and as of January 31, 2012, when the Redevelopment Agency terminated.

These include the following contracts:

WP Signal: This contract was a purchase order to buy a signal cabinet for some sort of traffic signal associated with the trail project. The \$14,938.50 purchase order was issued on October 17, 2008, with an expiration date of August 27, 2010, and there is no indication that the purchase order was further extended. There was no termination clause associated with the purchase order. The signatory to the purchase order was the City of Santa Clara, not the former Redevelopment Agency. The contract balance was shown as \$15,076.50 on June 15, 2011, based on a July 27, 2010 quote for the higher

purchase amount for the equipment. The balance as of January 31, 2012 was \$14,938.50, the amount of the original purchase order.

HMH Engineers: This contract was to design a staging area on Monroe Street as part of the trail project. The \$49,950 contract was issued July 27, 2004, with an expiration date of December 31, 2006, and no indication of further extension. The contract could be terminated immediately with notice. The signatory to this contract was the City of Santa Clara, not the former Redevelopment Agency. The contract balance was \$2,095 as of June 15, 2011, and zero as of January 31, 2012.

HMH Engineers: This contract was for additional design work on the Monroe staging area, and on Reach 4 of the trail project. The contract was between the Redevelopment Agency and the firm. The \$207,100 contract was issued October 24, 2006, with an expiration date of December 31, 2009, and no indication of further extension. The contract could be terminated with seven days' notice. The contract balance was \$22,997 as of June 15, 2011, and zero as of January 31, 2012.

Jana Sokale: This contract was for technical studies associated with the trail project. The \$134,100 contract was issued August 31, 2004, with a termination date of January 31, 2009, and no indication of further extension. The contract could be terminated immediately with notice. The signatory to this contract was the City of Santa Clara, not the former Redevelopment Agency. The contract balance was \$33,975 as of June 15, 2011, and zero as of January 31, 2012.

Peninsula Corridor Joint Powers Board: This contract was for right-of-way permits and associated cost for trail work adjacent to the Caltrain right-of-way. The \$35,000 contract was issued October 7, 2004, and had no expiration date or termination clause. The signatory to the contract was the City of Santa Clara, not the former Redevelopment Agency. The contract balance was reported as \$95,000 as of June 15, 2011, which appears to be a typographical error, since it exceeds the original contract amount, and zero as of January 31, 2012.

Tennyson Electric: This contract was for grade crossing work on the trail project. The \$522,340 contract was issued on October 28, 2008, with an expiration date of December 27, 2008, and no indication of further extension. A note attached to the contract indicated that the former Redevelopment Agency was to pay \$225,967 of the contract cost. The signatory to the contract was the City of Santa Clara, not the former Redevelopment Agency. The contract balance was \$15,020 as of June 15, 2011, and zero as of January 31, 2012.

Gordon N. Ball, Inc.: This contract was for trail construction. The \$6,531,108 contract was issued on May 8, 2007, with an expiration date of February 2, 2008, based on the estimated construction days included in the contract. A staff report stated that \$2 million in federal funds were being provided for the project, with the remainder coming from the former Redevelopment Agency. This federal funding was to be provided as reimbursement once construction was completed. The signatory to the contract was the City of Santa Clara, not the former Redevelopment Agency. No balance information as of either June 15, 2011 or January 31, 2012 was provided by

the City, although the contract documents were provided as evidence of an asserted enforceable obligation. However, the City also provided a copy of a lawsuit by the contractor, seeking damages of at least \$1,326,361, the value of work it claimed was completed and not paid for, and a City countersuit seeking damages of at least \$552,000 for delays in completing the project.

In summary: The amounts shown on the following table, based either on the original contract amounts, the June 15, 2011 balances, or the January 31, 2012 balances, should be recovered by the Successor Agency, because the transfer of the trail projects to the City were impermissible under the Redevelopment Dissolution Law and/or the contract obligations are liabilities of the City, not the RDA.

Summary of San Tomas Aquino Creek Trail and Spur Trail Contracts					
Contractor	Date	Original Amount	6/15/2011 Balance	1/31/2012 Balance	Contract Signatory
WP Signal	10/17/2008	\$ 14,939	\$ 15,077	\$ 14,939	City
HMH Engineers - Monroe St.	7/27/2004	49,950	2,095	-	City
HMH Engineers - Monroe St.-Reach 4	8/20/2008	207,100	22,997	-	RDA
Jana Sokale	3/31/2004	134,100	33,975	-	City
Peninsula Joint Powers Board	10/7/2004	35,000	95,000	-	City
Tennyson Electric [*]	10/28/2008	225,967	15,020	-	City
Gordon N. Ball, Inc. [**]	5/8/2007	4,531,108	?	?	City
TOTAL Contract		\$ 5,198,164	\$ 184,164	\$ 14,939	
NOTES:					
*Based on note attached to contract saying former Redevelopment Agency was responsible for this amount.					
**Based on staff report stating \$2 million federal funding was to be received, with remainder coming from the former Redevelopment Agency. No balance was provided for this contract as of 6/15/11 or 1/31/12.					

It should be noted that, except for the HMH Engineers contract, these contracts were with the City of Santa Clara, rather than the former Redevelopment Agency, and therefore may not constitute enforceable obligations against the Agency. However as previously mentioned we are considering City agreements entered into before January 1, 2011 as possible enforceable obligations subject to DOF approval.

In addition to the amounts listed in the table above, separate information provided by the City indicates that appropriations of \$794,008 were provided to the City by the former Redevelopment Agency, per the February 22, 2011 Cooperation Agreement, and then were formally transferred to the City on March 8, 2011. This is presumably in addition to the land value of the trail of \$18,984, transferred as a general fixed asset, as discussed elsewhere in this report.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the San Tomas Aquino Creek Trail and San Tomas Aquino Creek Trail Spur Trail projects must be reversed. In addition, the \$2 million federal funding for reimbursement for a portion of the trail construction costs is also appropriately characterized as an RDA asset because the initial source of funding was RDA funding. Therefore, if and when those funds are received, they should be remitted to the Successor Agency.

G Ulistac Natural Area Wetland Mitigation

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$318,448 in appropriations for "mitigation of existing area wetlands" related to the Santa Clara Gateway Office development project. This project was also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the \$66,049,074 transferred from the Agency's Bayshore North Project Redevelopment Fund to the City's Redevelopment Project Area Capital Improvement Fund.

The wetland project, which is located on the south side of Tasman Drive between the Guadalupe River and Lick Mill Boulevard, is an offshoot of the Santa Clara Gateway office development discussed in Section 5 of this report. According to a January 6, 2004 memorandum describing various professional contracts associated with the wetlands project, under an environmental impact report and an agreement with the San Francisco Bay Regional Water Quality Control Board "the City is required to create 4.56 acres of wetlands to mitigate the loss of 2.28 acres of wetlands at the Irvine Gateway site."

Furthermore, a February 16, 2000 Disposition and Development Agreement between the former Redevelopment Agency and The Irvine Company for development of the Santa Clara Gateway project states that "Agency shall at Agency's sole expense comply, or cause City to comply, with the provisions and conditions of any permits and certifications issued by, or agreements the Agency or City enters into with, the U.S. Army Corps of Engineers or the Regional Water Quality Control Board with respect to wetlands mitigation." It should be noted that part of the book value reported for the Gateway property, on a General Fixed Assets spreadsheet provided by City staff, was \$5,559,729 in infrastructure expenditures identified as "wetland mitigation."

Furthermore, City staff provided several contracts with consultants related to the wetland mitigation project. The City also provided information on contract balances as of June 15, 2011, the nearest information available to March 8, 2011, when appropriations for the project were transferred from the former Redevelopment Agency to the City, and as of January 31, 2012, when the Redevelopment Agency terminated. These include the following contracts:

Lowney Associates, aka TRC Engineers: This \$65,500 contract for soil remediation and preparation of construction documents was issued January 7, 2004, with an expiration

date of December 31, 2006, and no evidence provided of extension. The contract could be terminated immediately with notice. The City of Santa Clara, not the former Redevelopment Agency, was the signatory to the contract. The contract balance was \$21,809 as of June 15, 2011, and zero as of January 31, 2012.

Basin Research Associates: This \$11,738 contract for archaeological consulting was issued January 21, 2004, with an expiration date of December 31, 2006, and no evidence provided of extension. The contract could be terminated immediately with notice. The City of Santa Clara, not the former Redevelopment Agency, was the signatory to the contract. The contract balance was \$9,370 on June 15, 2011, and zero as of January 31, 2012.

H.T. Harvey and Associates: This \$69,040 contract for ecological services was issued January 21, 2004, with the latest expiration date being December 31, 2010, and no evidence provided of further extension. The contract could be terminated immediately with notice. The City of Santa Clara, not the former Redevelopment Agency, was the signatory to the contract. The contract balance was \$32 on June 15, 2011, and zero as of January 31, 2012.

KCI Environmental: This \$45,560 contract for tree planting and maintenance was issued June 23, 2009, with an expiration date of December 31, 2011. The contract could be terminated with 30 days' notice. The contract balance was \$5,000 as of June 15, 2011, and zero as of January 31, 2012. The contract was with the former Redevelopment Agency.

In summary: The amounts shown on the following table, based either on the original contract amounts, the June 15, 2011 balances, or the January 31, 2012 balances, should be recovered by the Successor Agency, because the transfer of the wetland mitigation project to the City was impermissible under the Redevelopment Dissolution Law and/or the contract obligations are liabilities of the City, not the RDA.

Summary of Ulistac Natural Area Wetland Mitigation Contracts					
Contractor	Date	Original Amount	6/15/2011 Balance	1/31/2012 Balance	Contract Signatory
Lowney Associates, aka TRC Engineers	1/7/2004	\$ 65,500	\$ 21,809	\$ -	City
Basin Research Associates	1/21/2004	11,738	9,370	-	City
H.T. Harvey and Associates	1/21/2004	69,040	32	-	City
KCI Environmental	6/23/2009	45,560	5,000	-	RDA
TOTAL Contract		\$ 191,838	\$ 36,211	\$ -	

It should be noted that three of the four contracts were with the City of Santa Clara, rather than the former Redevelopment Agency, and therefore may not constitute enforceable obligations against the Agency. However as previously mentioned we are considering City

agreements entered into before January 1, 2011 as possible enforceable obligations subject to DOF approval.

In addition to the amounts listed in the table above, separate information provided by the City indicates that appropriations of \$318,448 were provided to the City by the former Redevelopment Agency, per the February 22, 2011 Cooperation Agreement, and then were formally transferred to the City on March 8, 2011. This is presumably in addition to the land value of \$5,559,729 in infrastructure expenditures from the wetlands mitigation, transferred as a general fixed asset, as discussed elsewhere in this report.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Ulistac Natural Area Wetland Mitigation project must be reversed, with the funds returned to the Successor Agency.

H Yerba Buena Site Development

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City for the City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$220,532 in appropriations for "Yerba Buena Site Development," which was further described in that agreement as "Continued testing of clean-up area." This project was also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the funds transferred from the Agency's Bayshore North Redevelopment Project Area to the City's Redevelopment Project Area Capital Improvement Fund.

City staff provided a prior Cooperation Agreement between the former Redevelopment Agency and the City, dated August 17, 1999, which listed \$1 million for Yerba Buena Site Remediation among six projects the Agency would take on in conjunction with preparing the Santa Clara Gateway site for development. The Gateway project is discussed in Section 5 of this report.

In an e-mail, the City's Finance Director stated he was told by other City staff that a portion of the Santa Clara Gateway property was formerly a charcoal briquette manufacturing plant that dumped water contaminated by coal dust, which is technically a carcinogen, on the site. In order to develop the site, the City was required to scrape away the top soil and move it to another location on the property that would not be developed. According to the Finance Director, a staff person inspects the site annually for compliance with State regulations, and there is also an annual review by the California Department of Toxic Substances Control, and a more thorough review of the site's status by an outside environmental consultant every five years. The \$220,532 remaining from the original \$1 million is needed to pay annual fees for the State inspection, and for the periodic outside consultant review.

Neither the 1999 Cooperation Agreement between the City and former Redevelopment Agency, nor the February 2011 Cooperation Agreement for Bayshore North capital projects generally, constitute enforceable obligations under the Redevelopment Dissolution

Law, because they were agreements between the Agency and the City that formed the Agency, and H&S § 34171(d)(2) states that enforceable obligation “does not include any agreements, contracts or arrangements between the city . . . that created the redevelopment and the former redevelopment agency” with limited exceptions that do not apply to these agreements.

The transfer of appropriations from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Yerba Buena Site Development project must be reversed, as the information provided by City staff provides no basis for permitting payments for this work as an offset to cash previously transferred from the former Redevelopment Agency. The amount to be returned is \$220,532, the amount appropriated for this project in the February 2011 Cooperation Agreement between the City and the former Redevelopment Agency, since City staff has not provided contracts for actual implementation of this project.

I Convention Center Ballroom Expansion and Fire Alarm Upgrade

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City for City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$2,993,979 in appropriations for a 24,000-square-foot expansion of a new ballroom as part of the Santa Clara Convention Center, and an additional \$33,323 to upgrade the fire alarm system for the Convention Center, a project that, according to a report to the City Council, was paid from the same account as the ballroom expansion. Both projects were also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the \$66,049,074 transferred from the Agency’s Bayshore North Project Redevelopment Fund to the City’s Redevelopment Project Area Capital Improvement Fund. Separately, the former Redevelopment Agency transferred \$581,645 on construction-in-progress on this project completed as of March 8, 2011, based on a General Fixed Asset listing provided by City staff, and discussed elsewhere in this report.

City staff provided several contracts with consultants and a construction firm related to the ballroom and alarm projects. The City also provided information on contract balances as of June 15, 2011, the nearest information available to March 8, 2011, when appropriations for the project were transferred from the former Redevelopment Agency to the City, and as of January 31, 2012, when the Redevelopment Agency terminated. These include the following contracts:

Schrimer Engineering: This contract was for a fire alarm upgrade for the Convention Center. The \$56,000 contract with the former Redevelopment Agency was issued February 20, 2007, with an expiration date of June 30, 2009, and no indication that it was extended. This contract also could be terminated with seven days’ notice. The contract balance as of June 15, 2011 was \$12,480, and the balance was zero as of January 31, 2012.

Steinberg Architects: This contract was for design of the new ballroom. The \$1,730,000 contract was issued June 6, 2006, with an expiration date of December 31, 2009 and no indication that it was extended. This contract could be terminated with seven days' notice. The signatory to this contract was the City of Santa Clara, not the former Redevelopment Agency. The contract balance as of both June 15, 2011 and January 31, 2012 was \$32,606.

Skyline Engineering: This contract was for roof design review for the new ballroom. The \$21,600 contract was issued August 20, 2008, with an expiration date of December 31, 2011. The signatory to the contract was the former Redevelopment Agency. This contract could be terminated with 30-days' notice. The contract balance was \$5,000 as of December 15, 2011 and zero as of January 31, 2012.

Consolidated Engineering Laboratories: This contract was for building inspection services on the ballroom expansion. The \$105,000 contract was issued December 11, 2007, with an expiration date of January 1, 2010, and no indication that it was extended. This contract could be terminated immediately without notice. The contract balance was \$23,754 as of June 15, 2011, and zero as of January 31, 2012.

URS Corporation: This contract was for geotechnical services for the ballroom expansion. The \$95,000 contract was issued June 27, 2006, with an expiration date of December 31, 2009, and no indication that the contract was extended. The signatory to the contract was the City of Santa Clara, not the former Redevelopment Agency. This contract could be terminated immediately without notice. The contract balance as of June 15, 2011 was \$23,136, and zero as of January 31, 2012.

Roebbelen Contracting, Inc.: This contract was for construction of the ballroom expansion. The \$16,939,000 maximum contract was issued January 22, 2008, with an expiration date of April 26, 2009, based on the estimated days of construction required by the contract. As a construction contract, this contract had no termination clause. It was accompanied by a contract with Roseville Bank of Commerce to hold retention payments on the construction contract pending project completion. The contract balance as of June 15, 2011 was \$904,982 with Roebbelen Contracting and \$100,554 with Roseville Bank of Commerce. As of January 31, 2012, the contract balance was \$814,980 with Roebbelen Contracting and \$90,553 with Roseville Bank of Commerce. The signatory to both contracts was the City of Santa Clara, not the former Redevelopment Agency.

In summary: The amounts shown on the following table, based either on the original contract amounts, the June 15, 2011 balances, or the January 31, 2012 balances, should be recovered by the Successor Agency, because the transfer of the ballroom and fire alarm projects to the City were impermissible under the Redevelopment Dissolution Law and/or the contract obligations are liabilities of the City, not the RDA.

Summary of Ballroom Expansion and Fire Alarm Upgrade Contracts					
Contractor	Date	Original Amount	6/15/2011 Balance	1/31/2012 Balance	Contract Signatory
Schirmer Engineering	2/20/2007	\$ 56,000	\$ 12,480	\$ -	RDA
Steinberg Architects	6/6/2006	1,730,000	32,606	32,606	City
Skyline Engineering	8/20/2008	21,600	5,000	-	RDA
Consolidated Engineering Lab.	12/11/2007	105,000	23,754	-	RDA
URS Corporation	6/27/2006	95,000	23,136	-	City
Roebbelen Contracting	1/22/2008	16,939,000	1,005,536	905,533	City
TOTAL Contract		\$18,946,600	\$1,102,512	\$938,139	

It should be noted that the signatory to half of these contracts, including the main construction contract with Roebbelen Contracting, was the City of Santa Clara, rather than the former Redevelopment Agency. Therefore, the contracts may not constitute an enforceable obligation of the Agency. However, as previously mentioned we are considering City agreements entered into before January 1, 2011 as possible enforceable obligations subject to DOF approval.

In addition to the amounts listed in the table above, separate information provided by the City indicates that appropriations of \$3,027,302 were provided to the City by the former Redevelopment Agency, per the February 22, 2011 Cooperation Agreement, and then were formally transferred to the City on March 8, 2011. This is presumably in addition to the completed construction worth \$581,645, which was transferred to the City as a general fixed asset, as discussed elsewhere in this report.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Convention Center Ballroom Expansion and Fire Alarm Upgrade projects must be reversed, with the funds returned to the Successor Agency.

J Martinson Day Care Center

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$331,083 in appropriations for "major refurbishments to building systems" at the Martinson Day Care Center. This project was also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the \$66,049,074 transferred from the

Agency's Bayshore North Project Redevelopment Fund to the City's Redevelopment Project Area Capital Improvement Fund.

As discussed in the land transfer section of this report, the day care center site was purchased by the former Redevelopment Agency in June 2003 from the State of California, using \$1,438,375 of former Redevelopment Agency funds, and was then leased for 35 years to the Santa Clara Unified School District for \$1 per year. The school district then subleased the site to Martinson, since the Redevelopment Agency by law could not operate or maintain such a facility. As also noted in the land transfer section, the lease between the Redevelopment Agency and school district included the right of either party to terminate it on 30-days' notice.

According to the lease agreement between the former Redevelopment Agency and the school district, the Agency was responsible for maintenance and repair of such items as the facility's roof, foundation, windows, wall surfaces, exterior painting, plumbing, electrical wiring, HVAC systems, telephones, cable wiring, room partition replacement, exterior patios and walkways, and parking lot construction and replacement. However, these requirements are subject to the former Agency's ability to terminate the lease with 30-days' notice. In the land transfer section, we note that the transfer of the site to the City must be reversed, with the land returned to the Successor Agency for determination by the Oversight Board regarding liquidation of the site, likely to a governmental entity like the school district.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Martinson Day Care Center repairs must be reversed, in the amount of the \$331,083 reported for the project in the Cooperative Agreement, since no other contracts were provided by the City indicating obligations to third parties to carry out any repair work, with the funds returned to the Successor Agency.

K Walsh Avenue Sanitary Sewer Improvements

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City regarding Bayshore North Redevelopment Area projects reports project appropriations for this project totaling \$4,016,938. This project was also included among the list of projects for which project responsibility and remaining appropriations was transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the \$66,049,074 transferred from the Agency's Bayshore North Project Redevelopment Fund to the City's Redevelopment Project Area Capital Improvement Fund. The General Fixed Asset spreadsheet provided by City of Santa Clara staff to support the value of properties transferred from the Santa Clara Redevelopment Agency to the City of Santa Clara includes \$3,711,301 of construction in progress on the Walsh Avenue Sanitary Sewer and Recycled Water project that was transferred to the City as of March 8, 2011. According to the City's Fiscal Year 2011-12 Capital Improvement Project Budget, the Santa Clara Redevelopment Agency was to contribute up to \$8 million "as this project delivers capacity in the sewer main along Great America Parkway allowing for future development in the Redevelopment area."

City staff provided several contracts with consultants and a construction firm related to the sewer project. The City also provided information on contract balances as of June 15, 2011, the nearest information available to March 8, 2011, when appropriations for the project were transferred from the former Redevelopment Agency to the City, and as of January 31, 2012, when the Redevelopment Agency terminated. These include the following contracts:

Propcon Corporation dba APC International: This contract is for the construction manager on the sewer project. The original contract was issued on August 9, 2010 for \$263,353, and no language was provided in the contract regarding an expiration date or termination terms. As of June 15, 2011, the contract balance was \$55,846. As of January 31, 2012, the balance was \$44,386. The signatory to this contract was the City of Santa Clara, not the former Redevelopment Agency.

RMC Water and Environment: This contract was for sewer project design. The original contract was entered into on February 12, 2008, with an expiration date of December 12, 2011, and a contract amount of \$1,147,600. The contract permits termination with seven days' notice. As of June 15, 2011, the contract balance was \$69,906. As of January 31, 2012, the balance was \$51,278. The signatory to this contract was the City of Santa Clara, not the former Redevelopment Agency.

RMC Water and Environment: This contract was for hydraulic modeling related to the sewer project. The original contract was entered into on June 3, 2011, after the date of the transfer of the project from the former Redevelopment Agency to the City. A note attached to the contract documents state that only \$5,000 of this contract was to be paid by the former Redevelopment Agency, versus other City funds. As of both June 15, 2011 and January 31, 2012, the contract balance was \$5,000 attributable to the former RDA. The signatory to this contract was the City of Santa Clara, not the former Redevelopment Agency.

KJ Woods Construction, Inc.: This contract was for construction of the sewer project. The contract was entered into on July 13, 2010, with an expected completion date, based on the days of construction estimated in the contract, of September 26, 2011. This contract, as a construction contract, has no termination clauses. The contract was between the construction and the City of Santa Clara, not the former Redevelopment Agency. The total contract amount was for a maximum cost of \$9,457,600, but a note attached to the contract stated that the former Redevelopment Agency was to be assigned \$5,416,976 of contract costs. As of both June 15, 2011 and January 31, 2012, there was no unexpended contract balance reported by the City, indicating that construction had been completed. As of June 15, 2011, an associated contract with Borel Private Bank to hold retention payments pending project completion had a balance of \$4,822.

In summary: The amounts shown on the following table, based either on the original contract amounts, the June 15, 2011 balances, or the January 31, 2012 balances, should be recovered by the Successor Agency because the transfer of the garage project to the City was impermissible under the Redevelopment Dissolution Law and/or the contract obligations are liabilities of the City, not the RDA.

It should be noted that all of these contracts were with the City of Santa Clara rather than the former Redevelopment Agency, and therefore do not constitute an enforceable obligation against the Agency.

Summary of Walsh Avenue Sewer Contracts					
Contractor	Date	Original Amount	6/15/2011 Balance	1/31/2012 Balance	Contract Signatory
Propcon Corp. dba APC International	8/9/2010	\$ 262,353	\$ 55,846	\$ 44,386	City
RMC Water & Envir.-Sewer Design	2/12/2008	1,147,600	69,906	51,278	City
RMC Water & Envir.-Hydraulic Mod [*]	6/3/2011	5,000	5,000	5,000	City
KJ Woods Construction [*]	7/13/2010	5,416,976	4,822	-	City
TOTAL Contract		\$ 6,831,929	\$ 135,574	\$ 100,664	
NOTE: *Based on note attached to contract indicating amounts assigned to the former Redevelopment Agency.					

In addition to the amounts listed in the table above, separate information provided by the City indicates that appropriations of \$4,016,938 were provided to the City by the former Redevelopment Agency, per the February 22, 2011 Cooperation Agreement, and then were formally transferred to the City on March 8, 2011. This is presumably in addition to the completed construction worth \$3,711,301 transferred as a general fixed asset, as discussed elsewhere in this report.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Walsh Avenue Sanitary Sewer Improvement project must be reversed, with the funds returned to the Successor Agency. However, as previously mentioned, we are considering City agreements entered into before January 1, 2011 as possible enforceable obligations subject to DOF approval.

L Yerba Buena Site Development Fees

The February 22, 2011 agreement between the former Redevelopment Agency and the City of Santa Clara for the City to take over responsibility for completing infrastructure projects in the Bayshore North Redevelopment Project Area included among the projects transferred, with associated appropriations of funding, \$1,000,000 for Yerba Buena Site Development Fees, which were further described as “Agency share of office park development fees.”

While no further detail was provided in the February 22 agreement, we believe these fees were similar to the \$1.6 million the Agency had committed to pay in development fees related to the football stadium project. That is, they were all or a portion of water, sewer, street lighting, electricity and public works engineering fees that would be paid for

development of the office complex planned for the Santa Clara Gateway development, also known as the Yerba Buena site because it is crossed by Yerba Buena Way, further described in Section 5 of this report.

However, whereas the stadium project included specific language committing the former Redevelopment Agency to pay a 50 percent share of development fees for that project, no such documentation was ever provided by City staff regarding the Santa Clara Gateway project, despite requests. Payment of such fees is not included in a 2001 Cooperation Agreement between the former RDA and the City for development of the Yerba Buena, nor is it included in the Development and Disposition Agreement or lease agreements with The Irvine Company, which is constructing the office park on land leased within the Santa Clara Gateway site.

Based on the lack of any documentation provided to demonstrate an enforceable obligation of the former Redevelopment Agency related to the \$1,000,000 appropriation for the development fees, this proposed expenditure by the former Redevelopment Agency cannot be authorized as an offset to the transfer of money from the former Redevelopment Agency to the City, which must be reversed under terms of the Redevelopment Dissolution Law. The entire \$1,000,000 is not an enforceable obligation.

M Major Refurbishment of Public Facilities

The February 22, 2011 Cooperation Agreement between the former Redevelopment Agency and the City to carry out infrastructure improvements in the Bayshore North Redevelopment Area included the Agency providing \$25 million in appropriations for "Major Refurbishment of Public Facilities in NB RDA," referring to the North Bayshore Redevelopment Area, and further said the appropriation "Supports various civic facility refurbishments." This was the major project to be funded from the 2011 bond issue. This project was also included among the list of capital improvement projects for which responsibility and remaining appropriations were transferred from the former Redevelopment Agency to the City on March 8, 2011, and thus is a portion of the \$66,049,074 transferred from the Agency's Bayshore North Project Redevelopment Fund to the City's Redevelopment Project Area Capital Improvement Fund.

The City of Santa Clara Fiscal Year 2012-13 Capital Improvement Project Budget, as part of the list of projects to be funded via the Bayshore North Project Area Capital Improvement Program, further describes what is planned. According to that document, the projects are sited in "various locations in the Bayshore North Redevelopment Area," and are described as "Refurbishment of Redevelopment Agency built infrastructure and buildings such as the Convention Center garage, Martinson Day Care Center, Soccer Park and David's Banquet Facility." The budget description also describes this work as "project in the planning phase."

Despite requests, City staff have provided no contracts with third parties that require these projects to be carried out, or contracts with third parties to actually do any of the work. Based on that fact, and the fact that the appropriation for this work as a flat \$25 million, it appears this was money budgeted for future projects planned by the former Redevelopment

Agency, but for which no enforceable obligations had been entered into as of March 8, 2011, at the time money for the projects, and responsibility for them, was transferred from the former Redevelopment Agency to the City.

The transfer of monies from the former Redevelopment Agency to the City Redevelopment Project Area Capital Improvement Fund for the Downtown Revitalization project must be reversed, with the funds returned to the Successor Agency.

CITY OF SANTA CLARA
Redevelopment Agency Dissolution Audit
As of January 31, 2012

Section 8: Housing Appropriations Transferred

This section assesses information provided by City of Santa Clara staff, for the 12 projects listed in the February 2011 Cooperative Agreement, to determine if valid enforceable obligations or 3rd party contracts were in existence by June 27, 2011, and if amounts were paid by August 16, 2011, which would permit an offset to the return of unencumbered housing cash transferred to the Housing Agency on March 8, 2011 and thereafter. Where such enforceable obligations exist but were unpaid by August 16, 2011, the obligation may be permitted on future ROPS. We have listed such obligations separately on liability Schedule 3. The housing cash should be returned to the Successor Agency for remittance to the county auditor-controller for distribution to the taxing entities pursuant to H&S § 34177(d).

Each project will be discussed below and the basis for our finding will be explained. A summary follows:

**City of Santa Clara Redevelopment Agency
Appropriations Transferred to Housing Authority**

Ref.	Item/Project/Activity	Amount Per Cooperative Agreements	Authorized Expenditure (Permitted cash credit)	Amount not Authorized for Transfer	Basis	Enforceable obligations subject to amended EOPS/ROPS
A	Housing Administration & Grants to Non-Profit Housing Service Providers	\$ 2,436,000	\$ 513,213	\$ 1,922,787	No evidence provided of enforceable obligations to third party, other than contracts cited in text.	
B	First-Time Home Buyers Financing Program	\$ 3,800,520	\$ 340,324	\$ 3,460,196	Affordable Housing Agreements with City, not RDA. No evidence provided of enforceable obligations to third party.	
C	BAREC Senior Housing	\$ 19,999,000		\$ 19,999,000	Valid agreement for land purchase only existed on June 27, 2011.	\$ 11,684,275
D	SCCo Surplus Site Monroe/San Tomas Expressway	\$ 4,579,000	\$ 14,898	\$ 4,564,102	No evidence provided of enforceable obligations to third party.	
E	First-Time Home Buyers Program Condominium Conversion	\$ 1,000,000	-	\$ 1,000,000	No evidence provided of enforceable obligations to third party.	
F	Downtown Housing	\$ 8,500,000	-	\$ 8,500,000	No evidence provided of enforceable obligations to third party.	
G	Purchase Old Fire Station #6 Site	\$ 391,000	-	\$ 391,000	No evidence provided of enforceable obligations to third party. Prior agreement with RDA expired. Loan agreement is with City, not RDA.	
H	Neighborhood Conservation and Improvement Program	\$ 1,263,950	\$ 173,913	\$ 1,090,037	Permitted transfer is amount of grants from February to June 2011, prior to effective date of redevelopment dissolution law.	
I	1410 El Camino Real Housing Project	\$ 3,860,000		\$ 3,860,000	Predevelopment and Acquisition Loan agreements pre-dated effective date of redevelopment dissolution law, therefore, obligation to carry out those agreements is permitted.	\$ 3,860,000
J	Roem Corporation Housing Project	\$ 7,000,000	\$ 249,425	\$ 6,750,575	Only Predevelopment Loan Agreement predates effective date of redevelopment dissolution law.	
K	Charities Housing Acquisition-Rehab Project	\$ 4,000,000	-	\$ 4,000,000	No evidence provided of enforceable obligations to third party.	
L	Acquisition of City Housing	\$ 2,000,000	-	\$ 2,000,000	No evidence provided of enforceable obligations to third party.	
Total Appropriations transferred to Housing Authority		\$ 58,829,470	\$ 1,291,773	\$ 53,677,697		\$ 15,544,275

A Housing Administration and Grants to Non-Profit Housing Service Providers

The February 8, 2011, Cooperative Agreement between the former Redevelopment Agency and the City included \$2,436,000 for this program. City staff reported unspent appropriations for this program as of July 1, 2011 were \$2,839,385, while the amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$2,484,900. This indicates that additional money was appropriated for this program after the transfer.

In support of the transfer, City staff provided the following contracts, which it said were a sample of all the contracts paid for through this project:

- Project Sentinel Contract to provide client counseling for homeowners in danger of mortgage default.
- Next Door Solutions Contract to provide client counseling for domestic violence victims needing housing.
- Emergency Housing Consortium, Sobrato Living Center Contract to provide homeless shelter beds and housing location services for homeless clients.
- Project Sentinel Fair Housing Project Contract to provide counseling services to clients that have been victims of alleged housing discrimination.
- Silicon Valley Independent Living Center Contract to operate a four-bed shelter and provide transitional housing services to physically disabled clients.
- Catholic Charities Contract to provide counseling services for clients seeking shared housing arrangements, and facilitating shared housing arrangements.
- Council on Aging Contract to provide client counseling to senior citizen clients with housing problems.

All of these contracts were initially awarded by the former Redevelopment Agency in the summer or fall of 2009, and all were structured as an initial contract for Fiscal Year 2009-10, with renewable options for Fiscal Years 2010-11 and 2011-12. The renewal provisions of all the contracts required the contractor to send a letter of intent to renew by a specific date in December of the year proceeding the new contract fiscal year (by December 18, 2009 for FY 2010-11, for example). The Agency would then provide a return Letter of Renewal. In addition, each of the contracts has a "Termination for Convenience" clause, which states: "City or Contractor may terminate or suspend this Agreement in whole or in part when both Parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds."

These contracts, and others like them that are part of this project, appear to be addressed by H&S § 34163(b) of the redevelopment dissolution law, which states:

Commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following: (b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private . . . including, but not limited to . . . services contracts. . . .

Furthermore, H&S § 34163(c) also prohibits a redevelopment agency from “Amend[ing] or modify[ing] existing agreements, obligations or commitments with any entity, for any purpose, including but not limited to . . . (1) Renewing or extending term of leases or other agreements. . . .”

Based on the foregoing analysis of the contracts provided by City staff, assets that were supposed to pay for Housing Administration and Grants to Non-Profit Housing Service providers after June 28, 2011 must be returned to the Successor Agency, for remittance to the county auditor-controller for distribution to the taxing entities pursuant to H&S § 34177(d). Based on a spreadsheet of spent appropriations for this project, the amount of permitted transfer was \$513,213.

B First Time Home Buyers Financing Program

The February 8, 2011, Cooperative Agreement between the former Redevelopment Agency and the City included \$3,800,520 for this program. City staff reported unspent appropriations for this program as of July 1, 2011 were \$3,460,196 indicating that \$340,324 was spent. The amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$2,588,346 indicating that an additional \$871,799 was spent between July and January.

In support of this transfer of funds from the former Redevelopment Agency to the Housing Authority, City staff provided examples of Affordable Housing Agreements with various developers in the City. The Agreements require developers, as a condition of the right to build housing projects within the City, to dedicate 10 percent of the units for sale to moderate income households at below-market prices. In providing these agreements, the City has asserted that imposing this requirement on developers creates a parallel requirement for the City to provide mortgage funding for such buyers, and that this parallel requirement constitutes an enforceable obligation against the former Redevelopment Agency.

A review of the Affordable Housing Agreements showed no evidence of such an obligation to provide mortgage funding for buyers on the part of the former Redevelopment Agency. For example:

- The April 2009 Agreement with SCS Development Company for its 57-unit project stated, in Section 1.f Developer Requirements that “At the discretion of the Director of Planning and Inspection, the Redevelopment Agency may offer up to \$125,000 in a First-Time Homebuyer secondary mortgage loan for qualified homebuyers purchasing BMP (Below Market Pricing) units.” We fail to see how something that is discretionary for City staff can be construed as an enforceable obligation of the former RDA.
- “Section 2. City Obligations” in the Agreements states “The City agrees to make a good faith effort to initiate marketing of the Affordable Housing Units itself or through its designee, within 30 days of the developer providing notice to the City of the Affordable Housing Units construction completion and availability for sale.” Nowhere in the agreements is there any language committing the City to provide financing for these home purchases.

- Routinely attached to the Affordable Housing Agreements is the City of Santa Clara Below-Market Price Purchase Program Policies and Procedures, approved by the City Council on January 9, 2007, according to the document. Section V.A Financing the Home Purchase states, "Each homeowner is responsible for arranging and qualifying for the mortgage financing that is required to purchase the BMP unit. The first mortgage must be a thirty- or thirty-five-year, fixed-rate mortgage." While other language in this section offers first-time buyers the opportunity to use the First-Time Homebuyer Program, there is no guarantee of its availability.

Based on this review of the Affordable Housing Agreements, we conclude that there is no evidence of any kind of third-party obligation related to the money transferred to the Housing Authority for the First-Time Homebuyer Program.

Based on the foregoing analysis of the contracts provided by City staff, the appropriation transferred on February 8, 2011, did not include authorized transfers since there is no evidence that a valid third-party contract obligating these funds existed at June 27, 2011. However, the amount spent before the freeze date will be permitted. Lacking information at June 27th, we assume that the amount spent by June 30, 2011 of \$340,324 is permitted as an offset to cash to be returned.

C BAREC Senior Housing

The February 8, 2011 Cooperative Agreement between the former Redevelopment Agency and the City included \$19,999,000 for this program, \$14,535,000 from the mandatory 20 percent set-aside of funds by the former Redevelopment Agency for affordable housing programs, and \$5,464,000 for the additional 10 percent set-aside provided by City policy. City staff reported unspent appropriations for this program as of July 1, 2011 were \$13,491,105, while the amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$8,026,596 indicating that \$ 11,684,275 had been spent on this project.

This project involves the acquisition of a portion of the former Bay Area Research Extension Center property by the former Redevelopment Agency for purpose of developing an affordable housing project for senior citizens on the site. The property was finally transferred to the City of Santa Clara Housing Authority, via Grant Deed dated January 5, 2012. The grant deed stated that the deed was being made pursuant to a Purchase and Sale Agreement between the State Department of General Services and the Housing Authority dated July 5, 2005, as amended by an amendment to that agreement dated December 13, 2011. The July 5, 2005 agreement was actually between the State and the former Redevelopment Agency. A staff report regarding the December 13, 2011 amendment states that the amendment "clarifies the Affordability Covenants, the Grant Deed and the timing for close of escrow" specified in the July 5, 2005 agreement.

The July 5, 2005 agreement between the former Redevelopment Agency and the State Department of General Services states that "The Seniors' Property is expected to be developed for approximately 165 units of housing for affordable housing for senior citizens

earning not more than sixty percent of median income in Santa Clara County, by an entity selected by the Agency.” Purchase price for the property was to be a maximum of \$11,684,275, tied to the price of the remainder of the property to a private housing developer. The Agreement includes the option for the Agency to default, thereby terminating its rights, but also requires the Agency and State to indemnify each other for damages from each side’s actions. Close of escrow on the sale was tied to completion of sale of the rest of the property to a private developer, which appears to be why the final sale to the Housing Authority did not occur until January 5, 2012.

Based on the existence of the July 5, 2005 agreement between the former Redevelopment Agency for the purchase of this property from the State Department of General Services, it appears that such a contractual commitment of funds to a third party existed at the time of the transfer, but only for the amount of the property purchase. However, as this payment was made at the close of escrow in January 2012 but was not listed on the first ROPS, it is not a permitted payment. Additionally, this item was not permitted by DOF on the Housing Asset Transfer Form.

Should the City receive approval from DOF to amend the first ROPS, then the amount of \$11,684,275 may be permitted as a credit against unencumbered housing cash to be returned to the Successor Agency; however, the remaining \$8,026,000 was not encumbered on or before June 27, 2011.

D SCCo Surplus Site Monroe/San Tomas Expressway

The February 8, 2011, Cooperative Agreement between the former Redevelopment Agency and the City included \$4,579,000 for this program from the 20-percent set-aside of funds by the former Redevelopment Agency. City staff reported unspent appropriations for this program as of July 1, 2011 were \$4,564,102, indicating that \$14,898 was spent. The amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$4,562,269.

As discussed in more detail in the section of this report regarding land transfers, this property was transferred by the Santa Clara Redevelopment Agency to the City of Santa Clara Housing Authority on March 8, 2011, pursuant to a Grant Deed recorded as Document No. 21216119, and was originally acquired from the County of Santa Clara on January 11, 2005.

The purchase agreement for the property states: “County desires to sell the SE San Tomas/Monroe Parcel to be utilized for affordable housing purposes.” This statement does not create an enforceable obligation requiring the development of affordable housing on this site. The City was not able to document an agreement with a developer or existence of other third-party obligations related to this property.

Based on the foregoing analysis of information provided by City staff, there is no evidence that a valid third-party contract obligating these funds existed on June 27, 2011. Funds spent by June 30, 2011 of \$14,898 are permitted as a credit against unencumbered housing cash to be returned to the Successor Agency

E First-Time Homebuyer Program Condominium Conversion

The February 8, 2011, Cooperative Agreement between the former Redevelopment Agency and the City included \$1,000,000 for this program. City staff reported unspent appropriations for this program as of July 1, 2011 were \$1,000,000, while the amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$1,000,000.

According to information provided by City staff: "This is a special budgeted funding set-aside specific to a program (the First Time Home Buyers Financing Program), rather than an individual project." A description of the program in the Housing Authority's Fiscal Year 2012-13 budget further describe the funding as: "Exclusive funding reserve for first-time homebuyer mortgage assistance for income eligible, existing tenants impacted by condominium conversion projects. This program will assist moderate to low-income households seeking first-time homeownership. Use of budgeted funds is subject to the interest and eligibility of target population to become homeowners."

City staff asserts that the February 8, 2011 Cooperative Agreement demonstrates an enforceable obligation regarding this funding. We disagree.

City staff also did not provide documentation of specific commitments made to program participants that supported the \$1,000,000 that was transferred. As previously discussed, the agreement between the Redevelopment Agency and the City does not constitute an enforceable obligation under the redevelopment dissolution law. And the subsequent assignment to the City-controlled Housing Authority does not constitute a valid third-party obligation preventing the return of the funds to the Successor Agency.

Furthermore, any such loan agreements entered into after June 27, 2011 violate H&S § 34163(a), which states:

Commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following: (a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to all of the following: . . . (2) Loans of moneys or any other thing of value for residential construction, improvement or rehabilitation. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing. . . .

Based on the foregoing analysis of the information provided by City staff, no evidence of third party commitments for the monies transferred for the First-Time Home Buyer Condominium Conversion existed as of June 27, 2011.

F Downtown Housing

The February 8, 2011 Cooperative Agreement between the former Redevelopment Agency and the City included \$8,500,000 for this program, \$4,500,000 from the 20-percent set-aside of funds for affordable housing programs required by State law, and \$4,000,000 from the additional 10-percent set-aside provided by City policy. City staff reported unspent appropriations for this program as of July 1, 2011 were \$5,027,000 from the 20-percent set-aside, and \$4,000,000 from the 10-percent set-aside. The amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$10,527,000 from the 20-percent set-aside, and \$4,000,000 from the 10-percent set-aside. This suggests that additional tax increment was appropriated in the Low and Moderate Income Housing Fund after the February 8, 2011 initial transfer. City staff has not provided a basis for the increase in the balance of funds in this program.

A description of the program in the Housing Authority's Fiscal Year 2012-13 budget further describes the funding as: "Agency subsidy for development of approximately 73 affordable housing units. Development of affordable housing according to University Redevelopment Project Area Reuse Plan and State law requirements." City staff asserts that the February 8, 2011 Cooperative Agreement demonstrates an enforceable obligation regarding this funding, and provided no information on any commitment of these funds to third parties.

The Cooperative Agreement, and the subsequent transfer of funding and obligations under that agreement to the Housing Authority, is an agreement between the former Redevelopment Agency and the City that created the Redevelopment Agency. As previously discussed, these agreements do not constitute enforceable obligations.

Based on the foregoing analysis of the information provided by City staff, which showed no evidence of third party commitments for the appropriation transferred for the Downtown Housing program, we find there are no expenditures which would be allowed as a credit against transferred housing cash to the Housing Authority. Accordingly, no offset to transferred cash will be permitted.

G Purchase Old Fire Station #6 Site

The February 8, 2011, Cooperative Agreement between the former Redevelopment Agency and the City included \$391,000 from the 10-percent set-aside of former Redevelopment Agency funds by City policy for this program. City staff reported unspent appropriations for this program as of July 1, 2011 were \$381,689, and as of February 1, 2012 were \$381,289.

As discussed in the land transfer section of this report, this project is on the site of the City of Santa Clara's former Fire Station No. 6. According to City staff, this property is the future site of an affordable housing development to be carried out by Silicon Valley Habitat for Humanity, Inc. The City provided two documents as evidence of the requirement to carry out the project. First, an Exclusive Negotiation Agreement dated August 18, 2009 provided for a 270-day negotiation period for the Agency and developer to agree on a Disposition and Development Agreement for the site. However, the document also

indicated that the Agreement terminated after the 270 days, unless extended by the parties, and the City did not provide evidence that such an extension occurred.

In addition, City staff provided a Home Capital Loan Agreement between the City and Habitat for Humanity Silicon Valley, in which the City agreed to loan the non-profit \$1,046,250 in federal Department of Housing and Urban Development funds "to be utilized during the time period between August 18, 2010 and June 30, 2014" on the project, which is described in an attachment to the loan agreement as construction of six single-family homes for low income residents on the property. The loan agreement includes a termination clause that permits termination for convenience, but only if both sides agree. However, since the loan agreement is with the City and not the former Redevelopment Agency, and does not involve funds of the Agency, this agreement does not constitute an enforceable obligation of the former Redevelopment Agency.

Based on the foregoing analysis of the information provided by City staff, which showed no evidence of third party commitments for the monies transferred for the Purchase Old Fire Station #6 Site, we find are no expenditures which would be allowed as a credit against transferred housing cash to the Housing Authority.

H Neighborhood Conservation and Improvement Program

The February 8, 2011, Cooperative Agreement between the former Redevelopment Agency and the City included \$1,263,950 for this program. City staff reported unspent appropriations for this program as of July 1, 2011 were \$1,090,037, indicating that \$173,913 was spent by June 30, 2011. The amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$847,847, indicating that an additional \$242,190 was spent between July 2011 and January 2012.

According to a Neighborhood Conservation and Improvement Program Procedural Manual provided by City staff, this program offers technical and financial assistance for repair and rehabilitation of substandard housing. Subsidized interest rates and special loan terms are available for low- and moderate-income homeowners, and accessibility improvements can be offered to lower-income handicapped renters based on property-owner approval. City staff determines eligibility and inspects for property deficiencies and hazardous conditions to determine necessary repairs, then develops work specifications, solicits bids from contractors, and oversees the repairs.

Nothing in the manual legally requires the former Redevelopment Agency to have provided this assistance, and City staff did not provide documentation of specific commitments made to loan recipients that supported the \$1,263,950 that was transferred.

Moreover, entering into any new loan agreements after June 27, 2011 would have violated H&S § 34163(a).

Based on the foregoing analysis of the contracts provided by City staff, assets that were supposed to pay for Neighborhood Conservation and Improvement Program expenditures after June 27, 2011 are not allowed as appropriate expenditures. However, based on a

spreadsheet of unspent appropriations for this project, the amount allowed as a credit against transferred housing cash is \$173,913 representing amounts spent by July 1, 2011, the closest date to the freeze (June 28, 2011).

I 1410 El Camino Real Housing Project

The February 8, 2011 Cooperative Agreement between the former Redevelopment Agency and the City included \$3,860,000 for this program, part of the 10-percent set-aside of former Redevelopment Agency funds provided by City policy. City staff reported unspent appropriations for this program as of July 1, 2011 were \$4,455,637 indicating that additional money was appropriated after the transfer. The amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$33,015. Furthermore, the project site, 1410-1465 El Camino Real, was transferred from Presidio El Camino, L.P. to the Housing Authority on August 30, 2011. The project is development of 40 low- and moderate-income apartments and a community building on the site.

On May 3, 2010, the directors of the former Redevelopment Agency approved a Predevelopment Loan Agreement with Core Affordable Housing, LLC, providing \$200,000 to assist the developer in conducting environmental studies, preparing a financing plan and performance schedule, undertaking engineering and architectural studies, and other planning work for the project. That agreement provided a maximum of 300 days for the developer and the Agency to execute a subsequent Acquisition Loan Agreement for the project.

The subsequent Acquisition Loan Agreement with Presidio El Camino, L.P. was approved by the Agency directors on February 8, 2011. Presidio El Camino, L.P. is a limited partnership to whom Core Affordable Housing was permitted to assign its rights for the project, in order to obtain low income housing tax credit equity financing to assist in development the project. This transfer was permitted under the prior Predevelopment Loan Agreement. The Acquisition Loan Agreement provided for a loan of \$4,240,000 for land acquisition by the developer and additional predevelopment costs. Furthermore, the Agreement stated that at the "Construction Financing Event" for the project, the Agency would provide additional funding. It said the combined principal amount of the \$4,240,000 and the additional financing "shall not exceed \$8,000,000 plus all interest accrued under the predevelopment Agency Loan," which was the \$4,240,000. This indicated that the Agency was committed to loan at least another \$3,760,000, for construction costs. In addition, the Acquisition Loan Agreement stated that prior to the Construction Financing Event, "Developer and the Agency will enter into an Affordable Housing Agreement, which will, among other things, provide for the conveyance of fee title to the Property to the Agency, the lease of the Property back to Developer, and the development and operation of the project thereon." We also note that the Acquisition Loan Agreement permitted termination only based on a default by the developer, for specified reasons, and not at the unilateral option of the Agency.

The Affordable Housing Agreement described in the Acquisition Loan Agreement was approved by directors of the Housing Authority. Under the Affordable Housing Agreement dated August 30, 2011, the Authority agreed to purchase the property from the developer for fair market value of \$2,695,000, then lease it back to the developer for the same amount in

prepaid rent, under a 58-year initial lease with an additional 40-year option, so that there was no net cost to the Agency for purchasing the property. As described in a consultant's report accompanying the agreement, "the Housing Authority is essentially writing down the land value as part of its \$8,000,000 subsidy to the Project." From other actions that occurred during the same time period regarding the project, it appears the purchase and leaseback of the property by the Housing Authority was a requirement for the developer to obtain tax credit-based financing of about \$4.4 million to help pay to build the project. Total cost of the project, including all sources, was estimated by the consultant to be \$15,872,000.

Both the Predevelopment Agreement, from May 2010, and the Acquisition Loan Agreement, from February 2011, occurred prior to the transfer of the monies in question from the former Redevelopment Agency to the Housing Authority, and prior to the June 27, 2011 effective date of the redevelopment dissolution law.

Based on the foregoing analysis of the contracts provided by City staff, a third party commitment for the funds transferred to the Housing Authority to this project existed, and therefore \$3,760,000 was an existing enforceable obligation entered before June 27, 2011. However, from the data provided by city finance staff, this obligation was paid on September 1, 2011 and therefore it was not within the permitted window before August 16th. The City will need to work with the DOF to determine if and how it can recover these payment amounts.

J Roem Corp. Housing Project

The February 8, 2011 Cooperative Agreement between the former Redevelopment Agency and the City included \$7,000,000 for this project as part of the 20-percent set-aside of former Redevelopment Agency funds for affordable housing required by State law. City staff reported unspent appropriations for this program as of July 1, 2011 were \$6,907,667, while the amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$3,565,280. Furthermore, the project site, 2525-2527 El Camino Real, was transferred from 2525 El Camino Senior Apartments, L.P. to the Housing Authority on May 17, 2012. The project is development of 48 low- and moderate-income senior apartments.

On April 12, 2011, the City Council, sitting as the board of both the Housing Authority and the former Redevelopment Agency, approved a Predevelopment Loan Agreement to loan \$249,425 to Roem Apartment Communities, LLC. The Agreement was between the developer and the Housing Authority. Purpose of the Agreement, according to a budget attached to it, was to pay for architectural and engineering work, market studies, land deposits, city planning applications and other preliminary planning work regarding the project. The Agreement also was expected to expire on July 12, 2011, if a subsequent Acquisition Loan Agreement was not reached, but could be extended up to 30 days by mutual consent of the parties. It could be further extended to August 15, 2011, if the subsequent agreement was signed by the developer and forwarded to the City for review and approval. A staff report for the action noted that the City learned of Roem's interest in developing such a project with help from the former Redevelopment Agency on January 25, 2011. That report, also noted that the prospect of financing the project, was included in the

February 8, 2011 Cooperation Agreement. The Predevelopment Loan Agreement specifically states: "This Agreement shall not obligate either Party to enter into an Acquisition Loan Agreement or to enter into any particular Acquisition Loan Agreement. By execution of this Agreement, the Authority is not committing itself to the development of the Project or agreeing to undertake acquisition, disposition, or exercise of control over any portion of the Site nor is the Developer committing itself to undertake the acquisition of any portion of the site."

On July 5, 2011, the City Council, sitting as Housing Authority directors, approved a subsequent Acquisition Loan Agreement to loan Roem Apartment Communities, LLC \$3,795,000 for site acquisition and additional predevelopment costs. The Loan Agreement further committed the Housing Authority to loan additional funds for project construction, up to a total debt of land acquisition and construction costs of no more than \$7 million, plus accrued interest on the Acquisition Loan.

The date of the Acquisition Loan, July 5, 2011, is after the June 28, 2011 effective date of the redevelopment dissolution law. Such loan agreements were prohibited by H&S § 34163(a) of the redevelopment dissolution law and therefore do not constitute enforceable obligations.

Based on the foregoing analysis of the contracts provided by City staff, the only third party commitment for the funds transferred to the Housing Authority that existed as of the effective date of the dissolution law was the April 12, 2011 Predevelopment Loan Agreement. A transfer of funds for the amount of that agreement, \$249,425, was appropriate and will be allowed as a credit against the housing cash transfers.

K Charities Housing Acquisition-Rehab Project

The February 8, 2011 Cooperative Agreement between the former Redevelopment Agency and the City included \$4,000,000 for this program. City staff reported unspent appropriations for this program as of July 1, 2011 were \$4,000,000 while the amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$4,000,000.

According to a Predevelopment Loan and Reservation Agreement between the City of Santa Clara, not the former Redevelopment Agency, and Charities Housing Development Corporation of Santa Clara County, the purpose of this project is to determine the feasibility of acquiring and rehabilitating an existing distressed residential apartment complex within the City for rehabilitation as affordable housing. No specific site is identified in this agreement, which provides federal funds for the project, and states that Charities Housing will identify the target site before any such funds are received.

The City asserts that an enforceable obligation is created for this project by a Performance Schedule that is part of Exhibit A to this agreement. It states that one requirement of completing acquisition of any site for rehabilitation is "Execution of a capital loan agreement with the Housing Authority of the City of Santa Clara." The \$4,000,000 in former Redevelopment Agency funds allocated to this project apparently is supposed to provide the source of such a loan.

However, the Predevelopment Loan and Reservation Agreement to which this language is attached is dated March 27, 2012, well after the June 28, 2011 effective date of the redevelopment dissolution law, and even after the January 31, 2012 date which was the last day of the former Redevelopment Agency's existence. Based on the information provided, there is no evidence that any contractual obligation to a third party for these funds existed on or before June 27, 2011.

Based on the foregoing analysis of the contract provided by City staff, there is no evidence that a valid third-party contract obligating these funds existed on June 27, 2011 and therefore no credit will be permitted against the housing cash transfers.

L. Acquisition of City Housing

The February 8, 2011 Cooperative Agreement between the former Redevelopment Agency and the City included \$2,000,000 for this program from the 10-percent set-aside of former Redevelopment Agency funds for affordable housing provided by City policy. City staff reported unspent appropriations for this program as of July 1, 2011 were \$2,000,000 while the amount unspent as of February 1, 2012, when the former Redevelopment Agency went out of business under the dissolution law, was \$2,000,000.

A description of this project, included in the Housing Authority Fiscal Year 2012-13 budget, describes it as: "Agency acquisition of four single-family homes currently owned by the City and used for affordable housing purposes through existing lease agreements," and states the program justification to "Assist with development and preservation of affordable housing for persons and households of very low- to moderate-income."

City staff contends that the February 8, 2011 Cooperative Agreement between the City and the former Redevelopment Agency demonstrates an enforceable obligation requiring the retention and expenditure of this money with the Housing Authority. For the reasons repeatedly stated in this report, we disagree.

Furthermore, the transfer of these assets is now invalid pursuant to H&S § 34167.5 and the April 20, 2012 order by the State Controller. Further, H&S § 34167.10 defines a city to include entities created or controlled by the City. As previously discussed, the Santa Clara Housing Authority falls within this definition.

Based on the foregoing analysis of the information provided by City staff, which showed no evidence of third party commitments for the monies transferred for the Acquisition of City Housing program, there will be no credit allowed for housing cash transferred.

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City of Santa Clara
Gateway Property
Parcel 2 Valuation

General Data:	Net ¹ Developable		DDA ¹ Ground Lease revenue		Sedway Group 2000 ¹				County Appraiser Values ²	
	Acreage	Percentage	(Annual)	Percentage	Low end estimate	High end estimate	Total	per sq ft	Total	per sq ft
Sedway Group 2000										
Parcel #1	13.27	32.3%	2,259,072	32.3%	72,000,000	101,000,000	40.27	32,654,180	56.49	
Parcel #2	20.53	50.2%	3,639,002	52.1%	37,498,374	52,601,801	41.83	52,601,801	58.68	30,000
Parcel #3	7.18	17.5%	1,089,174	15.6%	11,223,459	15,744,018	35.89	15,744,018	50.34	
Total	41.03	100.0%	6,987,198	100.0%	72,000,000	101,000,000				
Kaiser Marston 2011										
Parcel 2	20.6		3,835,000		40,000,000		45			
Parcel 1&3	20.3		3,400,000		23,000,000		26			
Total	40.9		7,236,000		63,000,000					

Acre/Square Foot Conversion	
1 acre =	43560 sq. feet
Parcel 2 =	896,464.80 sq. feet

(1) Per Sedway Group Report February 2, 2000
 (2) Established in 2004 based on registered lease with Irvine -possessory interest.
 (3) The Kaiser Marston estimate only gave one value based on an internal rate of return of 9.5% based on the rental values in the DDA and parcel 2 lease

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Gateway Parcel 2
1999-2012 Yerba Buena Cooperation Agreement
Amortization Schedule
Updated through January 31, 2012

Term	Principle	LAF Interest Rate by QTR				Payments by Quarter				Interest Calculation by Quarter				Total Payments	Loan Balance
		Sept	Dec	March	June	Sept	Dec	Mar	June	Sept	Dec	Mar	June		
2/16/2001	\$ 40,000,000														\$ 40,000,000
7/1/2001				6.16%										\$ 308,000	\$ 40,840,000
1/1/2002			4.47%	2.96%	2.75%									\$ 456,387	\$ 42,226,770
7/1/2002			2.63%	2.31%	1.98%									\$ 277,720	\$ 43,034,839
1/1/2003			1.63%	1.56%	1.47%									\$ 209,082	\$ 44,025,121
7/1/2003			1.67%	2.00%	2.38%									\$ 149,795	\$ 45,617,266
1/1/2004			3.18%	3.65%	4.03%									\$ 191,002	\$ 47,293,493
7/1/2004			4.97%	5.11%	5.17%									\$ 244,617	\$ 49,093,706
1/1/2005			5.24%	4.96%	4.18%									\$ 350,525	\$ 50,818,999
7/1/2005			2.77%	2.54%	1.91%									\$ 183,119	\$ 52,511,888
1/1/2006			0.90%	0.60%	0.56%									\$ 4,869	\$ 53,308,300
7/1/2006			0.51%	0.40%	0.51%									\$ (9,380)	\$ 53,317,680
1/1/2007			0.38%	0.38%	0.38%									\$ (8,011)	\$ 53,325,691
7/1/2007														\$ (2,670)	\$ 53,328,361
1/1/2008														\$ (1,758)	\$ 53,330,119
7/1/2008														\$ (10,083)	\$ 53,339,802
1/1/2009														\$ (29,846)	\$ 53,369,648
7/1/2009														\$ (18,692)	\$ 53,388,340
1/1/2010														\$ (1,758)	\$ 53,390,098
7/1/2010														\$ (10,083)	\$ 53,400,181
1/1/2011														\$ (29,846)	\$ 53,429,827
7/1/2011														\$ (18,692)	\$ 53,448,519
1/1/2012														\$ (1,758)	\$ 53,450,277
7/1/2012														\$ (10,083)	\$ 53,460,360
1/1/2013														\$ (29,846)	\$ 53,490,206
7/1/2013														\$ (18,692)	\$ 53,508,898
1/1/2014														\$ (1,758)	\$ 53,510,656
7/1/2014														\$ (10,083)	\$ 53,520,739
1/1/2015														\$ (29,846)	\$ 53,550,585
7/1/2015														\$ (18,692)	\$ 53,569,277
1/1/2016														\$ (1,758)	\$ 53,571,035
7/1/2016														\$ (10,083)	\$ 53,581,118
1/1/2017														\$ (29,846)	\$ 53,610,964
7/1/2017														\$ (18,692)	\$ 53,629,656
1/1/2018														\$ (1,758)	\$ 53,631,414
7/1/2018														\$ (10,083)	\$ 53,641,497
1/1/2019														\$ (29,846)	\$ 53,671,343
7/1/2019														\$ (18,692)	\$ 53,690,035
1/1/2020														\$ (1,758)	\$ 53,691,793
7/1/2020														\$ (10,083)	\$ 53,701,876
1/1/2021														\$ (29,846)	\$ 53,731,722
7/1/2021														\$ (18,692)	\$ 53,750,414
1/1/2022														\$ (1,758)	\$ 53,752,172
7/1/2022														\$ (10,083)	\$ 53,762,255
1/1/2023														\$ (29,846)	\$ 53,792,101
7/1/2023														\$ (18,692)	\$ 53,810,793
1/1/2024														\$ (1,758)	\$ 53,812,551
7/1/2024														\$ (10,083)	\$ 53,822,634
1/1/2025														\$ (29,846)	\$ 53,852,480
7/1/2025														\$ (18,692)	\$ 53,871,172
1/1/2026														\$ (1,758)	\$ 53,872,930
7/1/2026														\$ (10,083)	\$ 53,882,813
1/1/2027														\$ (29,846)	\$ 53,912,659
7/1/2027														\$ (18,692)	\$ 53,931,351
1/1/2028														\$ (1,758)	\$ 53,933,109
7/1/2028														\$ (10,083)	\$ 53,943,192
1/1/2029														\$ (29,846)	\$ 53,973,038
7/1/2029														\$ (18,692)	\$ 53,991,730
1/1/2030														\$ (1,758)	\$ 53,993,488
7/1/2030														\$ (10,083)	\$ 54,003,571
1/1/2031														\$ (29,846)	\$ 54,033,417
7/1/2031														\$ (18,692)	\$ 54,052,109
1/1/2032														\$ (1,758)	\$ 54,053,867
7/1/2032														\$ (10,083)	\$ 54,063,950
1/1/2033														\$ (29,846)	\$ 54,093,796
7/1/2033														\$ (18,692)	\$ 54,112,488
1/1/2034														\$ (1,758)	\$ 54,114,246
7/1/2034														\$ (10,083)	\$ 54,124,329
1/1/2035														\$ (29,846)	\$ 54,154,175
7/1/2035														\$ (18,692)	\$ 54,172,867
1/1/2036														\$ (1,758)	\$ 54,174,625
7/1/2036														\$ (10,083)	\$ 54,184,708
1/1/2037														\$ (29,846)	\$ 54,214,554
7/1/2037														\$ (18,692)	\$ 54,233,246
1/1/2038														\$ (1,758)	\$ 54,235,004
7/1/2038														\$ (10,083)	\$ 54,245,087
1/1/2039														\$ (29,846)	\$ 54,274,933
7/1/2039														\$ (18,692)	\$ 54,293,625
1/1/2040														\$ (1,758)	\$ 54,295,383
7/1/2040														\$ (10,083)	\$ 54,305,466
1/1/2041														\$ (29,846)	\$ 54,335,312
7/1/2041														\$ (18,692)	\$ 54,354,004
1/1/2042														\$ (1,758)	\$ 54,355,762
7/1/2042														\$ (10,083)	\$ 54,365,845
1/1/2043														\$ (29,846)	\$ 54,395,691
7/1/2043														\$ (18,692)	\$ 54,414,383
1/1/2044														\$ (1,758)	\$ 54,416,141
7/1/2044														\$ (10,083)	\$ 54,426,224
1/1/2045														\$ (29,846)	\$ 54,456,070
7/1/2045														\$ (18,692)	\$ 54,474,762
1/1/2046														\$ (1,758)	\$ 54,476,520
7/1/2046														\$ (10,083)	\$ 54,486,603
1/1/2047														\$ (29,846)	\$ 54,516,449
7/1/2047														\$ (18,692)	\$ 54,535,141
1/1/2048														\$ (1,758)	\$ 54,536,899
7/1/2048														\$ (10,083)	\$ 54,546,982
1/1/2049														\$ (29,846)	\$ 54,576,828
7/1/2049														\$ (18,692)	\$ 54,595,520
1/1/2050														\$ (1,758)	\$ 54,597,278
7/1/2050														\$ (10,083)	\$ 54,607,361
1/1/2051														\$ (29,846)	\$ 54,637,207
7/1/2051														\$ (18,692)	\$ 54,655,900
1/1/2052															

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EXHIBIT C

City of Santa Clara Redevelopment Agency
Estimated Rents Received by the City For Property Transferred from the RDA
Subject to Clawback

Estimated Payment Date	Payment Amount	For	From
1-Apr	303,250.20	Gateway parcel 2	Irvine Co LLC
1-May	303,250.20	"	"
1-Jun	303,250.20	"	"
1-Jul	303,250.20	"	"
1-Aug	303,250.20	"	"
1-Sep	303,250.20	"	"
1-Oct	303,250.20	"	"
1-Nov	303,250.20	"	"
1-Dec	303,250.20	"	"
1-Jan	303,250.20	"	"
Subtotal	3,032,502.00		
31-Mar	1,325,000.00	Amusement Park	Great America Corp
30-Jun	1,325,000.00	"	"
30-Sep	1,325,000.00	"	"
30-Dec	1,325,000.00	"	"
Subtotal	5,300,000.00		
Total	\$ 8,332,502.00		

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Table 1
 Estimated Value of RDA Land Assets to be Transferred to City
 Santa Clara Redevelopment Agency
 March 7, 2011

Property	Description	Acreage (1)	Annual Ground Lease Revenue	Rate of Return of RDA Land As Encumbered	Estimated Value of RDA Land As Encumbered	Notes
1. Land Leased to Hilton	Land ground leased to an existing 280 room hotel ⁽²⁾ APN: 104-43-042	3.9 acres	base (fixed) \$400,000 percentage (3) \$134,000 total \$534,000	9%	\$5,900,000 \$35 /SF	Rate of return based on 4th Qtr 2010 RERC estimate for San Francisco First Tier Hotel Properties at 9% +/- Assume increasing likelihood of percentage rent over time.
2. Land Adjacent to Hilton	Surface parking lot, potential development site APN: 104-43-051	9.57 acres			\$16,700,000 \$40 /SF	Fully infrastructure site with Great America frontage potentially suitable for retail / entertainment use. Not entitled. Encumbered under Cedar Fair parking lease and would likely only proceed with synergistic retail / entertainment / hotel use or shared parking concept. Value not adjusted for the parking encumbrance impact.
3. Land leased to Theme Park (excl. parking area owned by City)	Land leased to Great America ⁽²⁾ APNs: 104-42-019 (theme park) APNs: 104-42-014 ⁽⁴⁾	117 acres (excl. parking area owned by City)	base: \$5,300,000 percentage \$0 for past 3 yrs total \$5,300,000	11%	\$48,000,000 \$9 /SF	Rate of return based on hotel increased by 200 basis points to reflect restriction to specialized theme park use, apparent turbulence in theme park industry, very large acreage, and flat base rent with no percentage rent for the last three years.
4. Land Leased to Irvine Company	Land leased to Irvine Co. for development of an office project. Parcel 2 "taken down" by Irvine but not developed. Parcels 1 and 3 may be taken down in future at Irvine's option. Parcels 1 and 3 are under City ownership; however, the RDA has right to conveyance of parcels upon request to carry out the DDA with Irvine. APNs: 104-01-100 (RDA) APNs: 104-01-99, -101 (owned by City but RDA has rights to)	Parcel 2 20.6 acres Parcels 1 & 3 20.3 acres 40.9 acres	Parcel 2 \$3,836,000 (2010-11 estimate) contingent / future Parcels 1&3 \$3,400,000 (if taken down)	9.5% 9.5%	\$40,000,000 \$45 /SF \$23,000,000 \$26 /SF \$63,000,000 \$35 /SF	Rate of return based on 4th Qtr 2010 RERC estimate for San Francisco First Tier Suburban Office increased by 150 basis points to reflect default risk created by high vacancy rates for office and undeveloped condition of land. Parcel 1 and 3 leases assumed to commence in 2016 (outside date) with value discounted back to 2011.

Table 1
Estimated Value of RDA Land Assets to be Transferred to City
Santa Clara Redevelopment Agency March 7, 2011

Property	Description	Acreage (1)	Annual Ground Lease Revenue	Rate of Return	Estimated Value of RDA Land As Encumbered	Notes
5. Land Leased to Marthson Child Development Center	Land subject to short term lease possible affordable housing site 097-08-053.	1.21 acres	\$1		\$3,700,000 \$70 /SF	Value estimated based on a recent proposal to City for acquisition of a 1.1 ac. affordable housing site at a comparable density.
Total Estimate of Land Value					\$137,300,000	
Outstanding Cooperation Agreement Balance					152,243,523.25	See Table 2
Remaining Cooperation Agreement Balance after Land Transfer					\$15,400,000 16,179,464.19	

(1) Based on Assessor records obtained through Realquest
(2) Improvements on the property are privately owned.
(3) Based on average percentage rent over the past five years.
(4) 4.11 acre portion of this parcel not subject to theme park lease but included in parking area.

Sources: City of Santa Clara, Real Estate Research Corporation, Realquest

Table 2
 1999-2006 Cooperation Agreement Outstanding Balance Prior to Land Transfer
 Santa Clara Redevelopment Agency
 (\$000's Omitted)

March 7, 2011

Fiscal Year	Beginning Balance	Draws ⁽¹⁾	Payments to date ⁽²⁾	Interest at 11% NOT compounded ⁽³⁾	Ending Balance
2/16 to 6/30/01	\$0	\$101,000	\$0	\$4,135	\$105,135
2001-02	\$105,135		\$0	\$11,110	\$116,245
2002-03	\$116,245		\$121	\$11,110	\$127,234
2003-04	\$127,234		\$3,639	\$11,110	\$134,705
2004-05	\$134,705		\$3,639	\$11,110	\$142,176
2005-06	\$142,176		\$7,432	\$11,110	\$145,855
2006-07	\$145,855		\$9,653	\$11,110	\$147,311
2007-08	\$147,311		\$9,572	\$11,110	\$148,850
2008-09	\$148,850		\$9,417	\$11,110	\$150,542
2009-10	\$150,542		\$9,407	\$11,110	\$152,246
2010-11	\$152,246		\$9,691	\$11,110	\$153,654

Used 152,243,523.25
 based on March 8, 2011 conveyance

Outstanding Balance \$153,700,000 rounded and not in thousands

Notes

- \$101 million balance per Sedway Appraisal dated February 2nd, 2000 and Amendment No. 1 to Cooperation Agreement adopted July 19, 2006. Draw is at beginning of period.
- Actuals per City records except FY 2010-11 which is an estimated amount based on mid-year revised budget.
- Calculated in accordance with current City / Agency practice based on Teachers Insurance annuity rate which is less than the legally allowable limit of 12% per Section 53531 of the California Government Code. Simple interest was chosen rather than compound interest.

Source: City of Santa Clara

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City of Santa Clara Redevelopment Agency
Agreed Upon Procedures and Findings

Attachment A

A. RDA Dissolution and Restrictions

For each redevelopment agency dissolved, perform the following:

1. Obtain a copy of the enforceable obligation payment schedule (EOPS) for the period of August 1, 2011, through December 31, 2011. *
- 1.1. Trace the redevelopment project name or area (which ever applies) associated with the obligations, the payee, a description of the nature of the work/service agreed to, and the amount of payments made by month through December 31, 2011, and *
- 1.2. Compare it to the legal document(s) that forms the basis for the obligations. Since amount could be estimated, determine that they are stated as such and that legal documentation supports those estimates.*

Results: Based on procedures performed, we noted there were obligations in the Initial EOPS for the period of August 1, 2011 through December 31, 2011 where legal supporting documentation was not adequate to determine whether it was a former redevelopment obligation. Item 6, which was removed from the Initial EOPS referred to City-owned land being held by the RDA. Items 7 and 18 were determined to be administrative expenses that effective January 1, 2012 are subject to a percentage limit and review by the Oversight Board for the Successor Agency every six months. Refer to Attachment B for further details.

2. Obtain a copy of all amended EOPS filed during the period of January 1, 2012, through June 30, 2012.*
- 2.1 Trace the redevelopment project name or area (which ever applies) associated with the obligations, the payee, a description of the nature of the work/service agreed to, and the amount of payments to be made by month through June 30, 2012, and *
- 2.2 Compare it to the legal documents that form the basis for the obligations. Again, since amount could be estimated, determine that they are stated as such and that legal documentation supports those estimates.*

Results: Based on procedures performed, we noted there were obligations in the Amended EOPS for the period of August 1, 2011 through December 31, 2011 where legal supporting documentation was not adequate to determine whether it was a former redevelopment obligation. Item 6, which was removed from the Amended EOPS, referred to City-owned land being held by the RDA. Items 7 and 18 were determined to be administrative expenses that effective January 1, 2012 are subject to a percentage limit and review by the Oversight Board for the Successor Agency. Refer to Attachment B for further details.

3. Identify any obligation listed on the EOPS that were entered into after June 27, 2011, by inspecting the date of incurrence specified on Form A of the Statement of Indebtedness filed with the County Auditor-Controller, which was filed on or before October 1, 2011.*

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Results: No exceptions noted as a result of the procedure performed. However, certain post-June 27 obligations were disclosed through other procedures. See Narrative Sections 7 and 8 of this report.

4. Inquire and specifically state in the report the manner in which the agency did or did not execute a transfer of the Low and Moderate Income Housing Fund to the redevelopment successor agency by February 1, 2012. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the successor agency. If the successor agency is a party other than the agency that created the redevelopment agency, an examination of bank statements and changing of account titles and fund names evidencing such transfer will be sufficient. *

Results: Based on the procedures performed, the three Low and Moderate Income Housing Funds were transferred to the Housing Authority, not the redevelopment Successor Agency. See Narrative Section 4 of the report. Specifically, effective 03/08/2011, the names of Funds 910 and 915 were changed. Fund 910 became Housing Authority 20% CIP and Fund 915 became Housing Authority 10% CIP. RDA Fund 920 was added to serve the function of the RDA's Low and Moderate Income Housing Fund by receiving the 20% Housing Set Aside from the RDA's Debt Service Funds; RDA Fund 920 transferred the Housing Set Aside to the Housing Authority.

5. Inquire and specifically state in the report how housing activities (assets and functions, rights, powers, duties, and obligations) were transferred and the manner in which this agency did or did not execute a transfer. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the other agency. An examination of bank statements and changing of account titles and fund names evidencing such transfers will be sufficient. If the housing successor is a party other than the agency that created the redevelopment agency, an examination of bank statements and re-recording of titles evidencing such transfer will be sufficient. *

Results: Based on the procedures performed, the assets, functions, rights, powers, duties, and obligations were transferred to the Housing Authority. See Narrative Section 4 and Section 8 of the report.

6. For each obligation on the Enforceable Obligation Payment Schedule identified as qualifying under Section 34167 (d) perform the following:
 - 6.1 For Bonds:
 - a. Obtain the bond documents.
 - b. Obtain the documentation of bond covenants
 - c. Trace the bond to its issuing legislation.
 - d. Trace the bond to its issuing party. Identify if it is issued by the RDA or other entity.
 - e. Determine if the issuing legislation qualifies the bond for inclusion on the Enforceable Obligation Payment Schedule.

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Results: Results for performing of steps a, b, c, d, e of the procedure 6.1 are summarized on Attachment B.

- f. Segregate bond obligations by component, i.e. required debt service, reserve set-asides, other payments.

Results: The step f of Procedure 6.1 was not performed.

6.2 For Loans:

- Trace each loan to its lawful purpose, for example money borrowed from the Low and Moderate Income Housing Fund. Provide documentation of the purpose.
- Trace the loan to a required repayment schedule or other mandatory loan terms.
- Provide documentation of the schedule or terms.

6.3 For Payments required:

- Trace each required payment to the source of the requirement.
- Provide documentation of the source and of the terms.

6.4 For judgments or settlements:

- Trace each judgment or settlement to its source document. Provide documentation and substantiation of the source and the terms.

6.5 For "Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy":

- Trace each agreement or contract to its source document. Provide documentation of the source.
- Trace each agreement to documentation justifying that it is not void because of a debt limit violation or public policy. Provide documentation of the justification.

Results: Results for performing of procedures 6.2, 6.3, 6.4, 6.5 are summarized on Attachment B.

6.6 Contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134; perform the following:

- Identify the justification for the obligation. Provide the reason.
- Trace each agreement or contract to its source document. Provide documentation of the source.

Results: The Procedure 6.6 was not performed as it was not considered applicable because the administrative costs, including contracts, were subject to the cap on administrative expenses and are reviewed by the Oversight Board every six months.

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6.7 For each obligation on the Enforceable Obligation Payment Schedule, ensure:

- The obligation was an obligation of the RDA as of June 27, 2011 per Health and Safety code Sections 34161 through 34165. Under these codes, the RDA cannot incur new indebtedness or expand existing monetary or legal obligations, amend agreements, contracts, etc. as of June 28, 2011.

6.8 For each obligation on the Enforceable Obligation Payment Schedule:

- Trace it to the FY11 Statement of Indebtedness. Document the differences.

Results: Results for performing of procedures 6.7 and 6.8 are summarized on Attachment B.

B. Successor Agency

1. Inspect evidence that a successor agency:

- (a) Has been established by February 1, 2012; and *
- (b) The successor agency oversight board has been appointed, with names of the successor agency oversight board members, which must be submitted to the Department of Finance by May 1, 2012. *

Results: No exceptions were noted as a result of the procedure performed.

2. Inquire regarding the procedures accomplished and specifically state in the report the manner in which this agency did or did not execute a transfer of operations to the successor agency, which was due by February 1, 2012. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the successor agency. If the successor agency is a party other than the agency that created the redevelopment agency, an examination of bank statements and changing of account titles and fund names evidencing such transfers will be sufficient.
*.

Results: No exceptions were noted as a result of the procedure performed.

3. Ascertain that the successor agency has established the Redevelopment Obligation Retirement Fund(s) in its accounting system. *

Results: The City established Fund 961 as the Redevelopment Obligation Retirement Fund into its accounting system as of February 2012.

4. Inspect the EOPS and ROPS and identify the payments that were due to be paid through the date of the AUP report. Select a sample (based on a dollar amount and/or percentage amount as determined by the Santa Clara County Auditor-Controller) and compare the payments that were due to be paid through the date of the AUP report to a copy of the cancelled check or other documentation supporting the payment. *

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Results: The Procedure 4 was not performed. The only enforceable obligations listed were bond issues and administration charges. The City relied on listing Co-op agreements which did not provide authority to make individual payments. See Narrative Section 7 and Section 8 of this report.

5. Obtain listings that support the asset figures (cash, investments, accounts receivable, notes, receivables, fixed assets, etc.) in the audited financial statements as of June 30, 2010, June 30, 2011, or the agency's fiscal year ending (not applicable), and as of January 31, 2012, as determined by the successor agency and include as an attachment to the AUP report. *

Results: Results of performing the procedure are summarized on Attachment D, Schedule 1 and Narrative Section 3 of this report.

C. Recognized Obligation Payment Schedule (Draft ROPS)¹

1. Obtain a copy of the initial draft of the ROPS from the successor agency and inspect evidence that the initial draft of the ROPS was prepared by March 1, 2012. *

Results: No exceptions were noted as a result of the procedure performed.

2. Note in the minutes of the Oversight Board that the draft ROPS has been approved by the Oversight Board. If the Oversight Board has not yet approved the draft ROPS as of the date of the AUP, this should be mentioned in the AUP report. *

Results: No exceptions were noted as a result of the procedure performed.

3. Inspect evidence that a copy of the draft ROPS was submitted to the County Auditor-Controller, State Controller, and Department of Finance. *

Results: No exceptions were noted as a result of the procedure performed.

4. Inspect evidence that the draft ROPS includes monthly scheduled payments for each enforceable obligation for the current six-month reporting time period. *

Results: No exceptions were noted as a result of the procedure performed.

5. Select a sample (based on dollar amount and/or percentage amount as determined by the Santa Clara County Auditor-Controller) and trace enforceable obligations listed on the draft ROPS to the legal document that forms the basis for the obligation. *

Results: This was assessed as part of the ROPS review titled *Dissolution Audit of the Redevelopment Agency of the City of Santa Clara Pursuant to Health and Safety Code Section 34182* and issued on April 2, 2012.

¹ As described in Narrative Sections 4, 7, and 8, the Certified ROPS only included authority for debt service payments and permitted administrative costs. However, the City continued to pay third-parties without EOPS or ROPS authority.

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6. Trace the obligations enumerated on the draft ROPS to the obligations enumerated on the EOPS (including amendments) and note any material differences as agreed to by the Santa Clara County Auditor-Controller. *

Results: A comparison between the Amended EOPS for the Redevelopment Agency for the City of Santa Clara with the Preliminary Draft ROPS for the Agency found that items 1, 2, 3, 4, 5, 8, 11, 12 and 13 exactly matched between the two documents in the item listed and the amount. The following differences in other items were noted:

Comparison of Amended EOPS with Preliminary Draft ROPS

Item No.	Description	EOPS Total	ROPS Total	Difference
6	Land Lease, Parking Lease	\$ 3,522,446	\$ 2,817,266	\$ 705,180
7	Reimbursement, Admin. Serv.	\$ 4,107,920	\$ 4,118,000	\$ (10,080)
9	Promissory Note, 1998 Advance	\$ 4,404,196	\$ 5,106,663	\$ (702,467)
10	2011 Coop. Agreement Stadium Authority	\$ 37,600,000	\$ 30,249,620	\$ 7,350,380

7. Review the Initial Recognized Obligation Payment Schedule to ensure:
- It includes projected dates
 - It includes amounts of scheduled payments for each enforceable obligation
 - The dates and payments are included for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had such a redevelopment agency not been dissolved.
 - Ensure that all obligations to be paid on the Initial Recognized Obligation Payment Schedule were subjected to the procedures applied above to Enforceable Obligations Payment Schedule.
 - For payments already made, trace the payment amount and date to the documentation of the payment and to the Initial ROPS.
 - Verify that payments made by the successor agency were made in accordance with the Enforceable Obligation Payment Schedule and Recognized Obligation Payment Schedule.
 - Pursuant to Health and Safety Code Section 34178, determine which written agreements are valid and bind the successor agency.

Results: This was assessed as part of the ROPS review titled *Dissolution Audit of the Redevelopment Agency of the City of Santa Clara Pursuant to Health and Safety Code Section 34182* and issued on April 2, 2012.

D. Recognized Obligation Payment Schedule (Final ROPS)

1. Obtain a copy of the final ROPS (January 1, 2012, through June 30, 2012) from the successor agency.*

* Required by California State Controller

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Results: No exceptions were noted as a result of the procedure performed.

2. Inspect evidence that the final ROPS was submitted to the County Auditor-Controller, the State Controller, and Department of Finance by April 15, 2012, and is posted on the website of the City/County as successor agency (Health and Safety Code section 34177(2)(C)). *

Results: The final ROPS was submitted to the County Auditor-Controller, State Controller, and Department of Finance prior to April 15, 2012. The Final ROPS is posted on the City of Santa Clara and County of Santa Clara websites. We viewed evidence that the Final ROPS was submitted to the State Controller in July, not by April 15, 2012.

3. Inspect the final ROPS and identify the payments that were due to be paid through the date of the Agreed-Upon Procedures report. *

Results: The Agreed-Upon Procedures report is being prepared in Fall 2012, which is after the January – June 2012 period covered by ROPS 1. As such, all payments were due prior to the AUP report.

4. For payments on the ROPS that were identified as being due through the date of the Agreed-Upon Procedures report, inspect evidence of payment and determine that amounts agree to the purpose of the obligation as amounts could be estimated. *

Results: We viewed evidence of payment for ROPS lines 1- 6.

5. Select a sample (based on a dollar amount and/or percentage amount as determined by the Santa Clara County Auditor-Controller) and trace enforceable obligations listed on the final ROPS to the legal agreements or documents that forms the basis for the obligation. *

Results: This was assessed as part of the ROPS review titled *Dissolution Audit of the Redevelopment Agency of the City of Santa Clara Pursuant to Health and Safety Code Section 34182* and issued on April 2, 2012.

6. Obtain a copy of the final statement of indebtedness and note any difference between the Statement of Indebtedness and the final ROPS.

Results: A comparison between the September 30, 2011 Statement of Indebtedness for the Redevelopment Agency of the City of Santa Clara with the Preliminary Draft ROPS for the Agency found that items 1, 2, 3, 4,5, 8, 9, 11 and 13 exactly matched between the two documents in the item listed and the amount. The following differences in other items were noted:

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Comparison of Statement of Indebtedness with Preliminary Draft ROPS

Item No.	Description	SOI Total	ROPS Total	Difference
6	Land Lease, Parking Lease	not shown	\$ 2,817,266	\$(2,817,266)
7	Reimbursement, Admin. Serv.	\$ 4,107,920	\$ 4,118,000	\$ (10,080)
10	2011 Coop. Agreement Stadium Auth.	\$37,600,000	\$30,249,620	\$ 7,350,380
12	Legal and Consulting Contracts	not shown	\$ 762,789	\$ (762,789)

7. Determine the priority and source of payments to be made from the Redevelopment Property Tax Trust Fund pursuant to Health and Safety Code section 34183(a)(2).

Results: For the purpose of making payments of available funds from the Redevelopment Property Tax Trust Fund (net of the Auditor-Controller's Administrative Cost, SB 2557, and non-subordinated pass-through payments), the priorities are Tax Allocation Debt Obligations, Contractual Obligations and the administrative cost allowance.

8. Identify enforceable obligations on the final ROPS that were not already tested in other procedures, and test.

Results: All enforceable obligations on ROPS were tested and reported upon in the ROPS review titled *Dissolution Audit of the Redevelopment Agency of the City of Santa Clara Pursuant to Health and Safety Code Section 34182* and issued on April 2, 2012.

E. Other Procedures

1. Obtain a list of pass-through obligations and payment schedules. *

Results: The County Finance Agency performed this procedure. See results summarized at Attachment C.

2. Obtain a list of pass-through obligations and payments made from the successor agency from July 1, 2011 through January 31, 2012, inspect evidence of payment, and note any differences from the list of pass-through obligations and payments made. *

Results: The County Finance Agency performed this procedure. See results summarized at Attachment C.

3. Issue Agreed-Upon Procedures Report and distribute to the California State Controller by **July 15, 2012.** *

Results: Upon passage of AB1484, the report due date was amended to October 5, 2012. In light of the complexity of the transactions, the Santa Clara County Auditor-Controller requested an extension of time. This report was issued on December 17, 2012, and the Santa

* Required by California State Controller

City of Santa Clara Redevelopment Agency
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Clara County Auditor-Controller plans to distribute it to the California State Controller by December 17, 2012.

4. Determine and verify that all of the former redevelopment agency assets and liabilities, properties, contracts, leases, books and records, buildings, and equipment that were properly closed out by the former redevelopment agency and transferred to the successor agency.

Results: For results, see the narrative and summaries within this report.

5. Verify that successor agencies remitted all unencumbered balances of RDA funds to the county controller for distribution to taxing entities, pursuant to Health and Safety Code section 34177(d).

Results: The successor agency has remitted unencumbered balance of \$378,540.37 to the County on July 11, 2012. This amount is not to be distributed to any entity per an Order by Superior Court, County of Sacramento, Case #34-2012-80001192. As described in Narrative Section 2 of this report, most Successor Agency assets are held by the City or its Housing Authority.

F. Establish each redevelopment agency's assets and liabilities in compliance with H&S 34182(a) (2) perform the following:

1. Obtain a summary schedule and detail listing of the redevelopment agency's assets as of January 1, 2011. Total the detail listing to the summary amounts.

Results: No such listing was available as of January 1, 2011. Alternative steps were performed to review assets. See Schedule 1 and Narrative Section 3 of this report. In coordination with the transfers testing performed at AUP step F.9, we traced assets to the fiscal year beginning balance plus detail transactions to the transfer date (March 8, 2011), fiscal year end (June 30, 2011) and January 31, 2012. We also performed additional analysis of assets which is described within the narrative sections within this report.

2. Obtain a summary schedule and detail listing of the redevelopment agency's liabilities as of each of the dates listed below. Total the detail listing to the summary amounts.
 - June 30, 2010
 - January 1, 2011
 - June 30, 2011
 - February 1, 2012

Results: Alternative steps were performed to review the agency's liabilities. For results, see Narrative Sections 6, 7 and 8 of this report.

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3. Compare each period's assets and liabilities and document the changes.

Results: Alternative steps were performed to review assets and liabilities. For results see Narrative Sections 3, 4 and 6 of this report.

4. Obtain a listing of the additions and deletions of assets and liabilities for the periods:
- June 30, 2010 to January 1, 2011
 - January 1, 2011 to June 30, 2011
 - July 1, 2011 to February 1, 2012

Results: Alternative steps were performed to review assets and liabilities. For results, see Narrative Sections 3 and 4 of this report.

5. Sum the activity to ensure: beginning balance plus additions less deletions equals ending balance.

Results: Alternative steps were performed to review assets and liabilities. For results, see the narrative sections within this report.

6. For each asset, confirm its existence by either physically observing the asset (preferred) or, if asset is not reasonably available for viewing, obtain documentation confirming the existence of the asset.

Results: This step was performed on a sample basis. No exceptions were noted as a result of the procedure performed.

7. Provide documentation of the asset cost, date placed in service, current condition, and ownership by the RDA and successor agency.

Results: This step was performed on a sample basis. Reviewed documentation of the asset book value and ownership. Exceptions identified are discussed in the narrative section of this report.

8. For deletions, obtain documentation of the disposal, including manner of disposal and, if a sale or transfer, the entity or person receiving the asset.

Results: The procedure was performed to trace all properties to County Assessor records to ascertain ownership. Exceptions identified are discussed in Narrative Section 4 of this report.

9. Compare transferred assets between 2009-10, 2010-11 and 2011-12. Obtain explanations for increases.

Results: The procedure was performed by tracing assets to the fiscal year beginning balance plus detail transactions to the transfer date (March 8, 2011), fiscal year end (June 30, 2011) and January 31, 2012. Significant transfers occurred in Spring 2011 are discussed in Narrative Section 4 of this report.

City of Santa Clara Redevelopment Agency
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10. Obtain a list of assets transferred from the RDA. For assets transferred during these periods from the RDA (for example, to the sponsoring community, JPA, or economic development corporation):

- Provide a listing of all transferred assets, including the item(s) value and entity or person to which the RDA transferred the item.
- Provide documentation of the reason for the transfer.
- Identify if the State Controller's Office (SCO) has reviewed the transfer.
- If reviewed by the SCO, provide results of the SCO review.
- If not reviewed by the SCO, provide the reason not reviewed.

Results: The procedure was performed and discussed in Narrative Section 4 of this report in addition to Schedule 2. The State Controller's Office has not completed a review of transferred assets for Santa Clara. The State Department of Finance's August 30 letter related to their review of Housing Asset Transfers was reviewed as part of the procedure.

11. For assets that are Low and Moderate Income Housing Funds:

- Provide substantiation of the effect of any subsequent legislation (if passed) on the transfer.

Results: RDA Trailer Bill (AB 1484), which became law on June 27, 2012, modified and provided some clarification to the treatment of housing assets under RDA Dissolution Act (ABx1 26). It now includes a definition of housing assets and requires certain actions that must occur by August 1, 2012 with respect to the transfer of housing assets. It requires the transferred assets and future revenues from housing assets, be maintained in the Low and Moderate Income Housing Assets Fund of the housing successor and that such funds be used in accordance with existing California Redevelopment Law. It allows the use of unspent housing bond proceeds issued prior to January 1, 2011 to be used for housing projects, consistent with the bond covenants, which must be listed on the ROPS.

12. Review the audited financial statements as of June 30, 2010, and June 30, 2011.

- Verify the agency received an unqualified opinion on the financial statements; if other than unqualified, document the reasons for the qualification.
- Obtain copies of the audit, management letter, and any other results/products delivered by the auditors.
- Trace asset and liability amounts as of June 30, 2010, and June 30, 2011, to the annual financial audit of the Agency. Identify reasons for differences.

Results: No exceptions were noted as a result of the procedure performed.

13. Perform analysis as follows:

- Compare the financial statements as of June 30, 2010, to the statements as of June 30, 2011, and January 31, 2012.
- Identify fluctuations in amounts greater than \$5,000. Substantiate reasons for the fluctuations. For this fluctuation analysis, include all amounts (revenue, expense, assets, liabilities, and fund balance).

City of Santa Clara Redevelopment Agency Agreed Upon Procedures and Findings

Results: A comparison of the June 30, 2010 and June 30, 2011 financial statements showed substantial changes between the two years as a result of the transfers of land and cash assets that occurred from the former RDA to other City entities in March 2011. The amount of these transfers, as shown in the June 30, 2011 financial report was verified by looking at a detailed spreadsheet of individual financial transactions provided by City staff. In addition, the details of the transfers were reviewed, including Grant Deeds, Property Conveyance Agreements and Lease Assignment and Assumption Agreements approved by the former RDA, documents listing the value of each real property transferred, and information provided by the City on third party obligations existing in relation to the properties and cash transferred. See Schedule 2 and Narrative Section 4 of this report.

- Trace revenue received (for example lease payments received) to the assets that generated the revenue.

Results: The City and former Redevelopment Agency Comprehensive Annual Financial Reports identified minimum lease payments expected to be received from each of the properties that were transferred in March 2011. The existence of the leases and the requirement to pay rent were confirmed by reviewing the individual lease agreements for the specific properties, and the financial transactions provided by the City were reviewed for evidence that lease payments were received by the former RDA. The accuracy of the specific amounts received, versus lease requirements, was not reviewed, because the lease amounts were typically associated with lessee performance measures, and would have required a detailed analysis of lessee records that was not possible within the scope and time for this audit. All estimated rents to be returned to Successor Agency are identified in Narrative Section 4 of this report.

- Read the footnotes. Identify assets.
- Trace assets identified to the RDA assets as of January 31, 2012. Identify and substantiate reasons for differences.

Results: No exceptions were noted as a result of the procedure performed.

- Review expenditures made after June 28, 2011, to ensure they met the conditions of Part 1.8 (commencing with Health & Safety Code Section 34161).

Results: RDA payments were reviewed with no exceptions noted. Narrative Sections 7 and 8 explain limitations in reviewing City payments.

- For each expenditure, provide its rationale.

Results: RDA payments were reviewed with no exceptions noted. Sections 7 and 8 explain limitations in reviewing City payments. Individual billings were not reviewed. However, the terms of all contracts were reviewed, including the starting and ending dates of the contracts, whether contract extension occurred, and whether the contract had a termination clause, and what that clause required. In addition to the total amount of spending permitted under each

City of Santa Clara Redevelopment Agency Agreed Upon Procedures and Findings

contract, which was obtained from the contract documents, City staff provided information on the balance remaining on each contract as of June 15, 2011, which City staff said was the only such listing available that was near either the March 8, 2011 date when assets and responsibility for projects was transferred from the former RDA to other City entities, or the June 27, 2011 effective date of the Redevelopment Dissolution Law. City staff also provided a balance for each contract as of January 31, 2012, the last day of existence of the former Redevelopment Agency.

- For each expenditure greater than \$10,000, provide substantiation that it meets the requirements of Part 1.8.

Results: RDA payments were reviewed with no exceptions noted. Sections 7 and 8 explain limitations in reviewing City payments. As shown in Sections 7 and 8, what was reviewed was the balance on contracts remaining as of June 15, 2011, and as of January 31, 2012. June 15, 2011 was the closest information available to the March 8, 2011 transfer date, and the June 27, 2011 effective date of the Redevelopment Dissolution Law, while January 31, 2012 was the last date of existence of the former Redevelopment Agency.

- Confirm assets with successor agency personnel.
- Ask successor agency personnel of any assets not recorded.

Results: No exceptions were noted as a result of the procedure performed

- Obtain a written statement from successor agency personnel verifying that all assets have been recorded.

Results: No exceptions were noted as a result of the procedure performed. However, see Narrative Section 5 of this report which details an action to transfer two parcels (Gateway parcels 1 and 3) from the RDA to the City. This misstated the fact that the parcels had been in continuous ownership by the City since 1973.

- Review RDA board minutes from June 30, 2010 to date, to identify any assets not recorded and liabilities transferred in.

Results: Performed on a sample basis. Also, included a review of staff reports to the City Council. The review focused on asset transfers.

- Review property transfer listing provided by the County Clerk-Recorder from January 1, 2011 through February 29, 2012 to identify any assets not recorded. To the extent possible and practical, trace the city's records and transactions and reconcile to the financial statements.

Results: No exceptions were noted as a result of the procedure performed.

City of Santa Clara Redevelopment Agency
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G. To document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies.

1. Obtain all pass-through agreements.
2. Obtain a listing of the redevelopment agency's pass-through obligations as of February 1, 2012, including due dates, amounts due, and recipient agency.
3. If pass-through amounts are calculated by Santa Clara County Controller-Treasurer Department, confirm the amount with county personnel.
4. If pass through amounts are calculated by the RDA, obtain a detail worksheet of each calculation. Agree the amounts per the worksheet to the total on the summary.
5. Confirm the calculation with county personnel.
6. For pass-through payments listed as of February 1, 2012, and already made, trace the payment amount and date to the documentation of the payment.
7. List payments', including dates and amount that will need to be made during FY2012.

Results: County Finance Agency staff performed these procedures. See results summarized at Attachment C.

H. To document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency

1. For each indebtedness incurred by the agency that will be transferred to the control of the Successor Agency, i.e. Enforceable Obligations:
 - Agree it to the liabilities tested above, as of each of these dates:
 - June 30, 2010
 - January 1, 2011;
 - June 30, 2011 and
 - February 1, 2012.
 - Agree it to the audited financial statements as of June 30, 2010 and June 30, 2011.

Results: The indebtedness obligations transferred to the control of the Successor Agency are summarized at Schedule 3, which were in turn reconciled to the June 30, 2010 and June 30, 2011 audited financial statements in Procedure F.12. Liabilities could not be tested as of January 1, 2011, because the City does not generate interim financial statements showing indebtedness at that date.

City of Santa Clara Redevelopment Agency
Detailed Schedule of Procedures and Findings
County of Santa Clara Auditor-Controller
(Per Agreed-Upon Procedures)

Coup Dates	Procedure Number	Description	AM		A.1.2, A.1.2.1 and A.1.2		A.1.2, A.1.2.1 and A.1.2		A.1.7	Amount	Difference From Original EOPS	Difference From Original Amended EOPS	Explanation of Findings
			Page 1/Item 1	Page 1/Item 1	Y	Y	Y/N	Y/N					
	Legal and Consulting Contracts	Orshink & Lipson / Kyster Mariposa	Page 1/Item 1	Page 1/Item 1	Y	Y	Y	Y	N	\$ 762,719	0	0	This item was included on the amended EOPS but was not included on the original EOPS. It was identified in the Administrative Expense.
	Loan Agreement	City of Santa Clara	Page 1/Item 1	Page 1/Item 1	Y	Y	Y	Y	Y	6,445,291	0	0	This was a modified appropriation based on an Amended EOPS. The original EOPS was for \$0. The modified EOPS is required in the actual payment for refundable obligations.
	The Office Computer RDA	City of Santa Clara	Page 2/Item 1	Page 2/Item 1	N/A	N/A	N/A	N/A	N/A	0	0	0	This was a responsibility for the County Auditor Controller.
	Pass thru payments	Truist agreement in project area	Page 2/Item 1	Page 2/Item 1	Y	Y	Y	Y	N	7,723,130	(118,192,698)	(110,470,568)	This was a responsibility for the County Auditor Controller.
	Administrative Fees Paid to County	County of Santa Clara	Page 2/Item 2	Page 2/Item 2	Y	Y	Y	Y	N	151,343,744	151,343,744.00	151,343,744.00	This was a responsibility for the County Auditor Controller.
	School Fee Through Direct Care 35672									0	0	0	
	2011 County Agreement - 20% Housing CTR									0	0	0	
	Agency/County Housing Authority									0	0	0	
	Office Contribution - AB 13.27.2012									0	0	0	
	Open Contribution - AB 13.27.2012									0	0	0	
	Total									\$ 997,758,497	\$ 0	\$ 0	

Note 1: The total for "Contract for Consulting services on the Amended EOPS" is \$98,294.64. The total on the Statement of Indebtedness is \$98,294.64. A total difference of \$391.50.
 Note 2: The total for "Contract for Construction" on the Amended EOPS and the Statement of Indebtedness is \$188,421.
 Note 3: The total for "Contract for Homeowner Association Dues" on the Amended EOPS is \$40,636. The total on the Statement of Indebtedness is \$33,817. A total difference of \$6,819.

**City of Santa Clara Redevelopment Agency
Agreed Upon Procedures and Findings**

Attachment C

**Pass Through Obligations
Santa Clara Redevelopment Agency**

Review of the Pass-through Obligation (Procedures E.1, E.2, and G) was satisfactorily completed by County of Santa Clara (County), Finance Agency staff.

The Santa Clara Redevelopment Agency has both statutory pass-through obligations as required by AB 1290 and Health and Safety Code § 33676 (Basic-Aid) pass-through obligations.

County Property Tax Division staff has confirmed all pass-through amounts and all payments were made by the County on June 1, 2012. All future pass-through computations and payments will be the responsibility of the County Finance Agency.

A summary of the pass-through obligations follows:

	Prior to February 1, 2012 payments		June 1, 2012 payments			TOTAL		
	Basic Aid H & S §33676	AB 1290 Statutory	Basic Aid H & S §33676	AB 1290 Statutory		Basic Aid H & S §33676	AB 1290 Statutory	Total
County General		151,251.39		20,370.21		0	171,621.60	171,621.60
Santa Clara City		50,458.12		29,647.07		0	80,105.19	80,105.19
Santa Clara Unified School	579,805.77	162,547.18	579,805.77	143,094.28		1,159,611.54	305,641.46	1,465,253.00
West Valley-Mission Community College		47,003.26		41,378.13		0	88,381.39	88,381.39
County Office of Education	64,087.87	16,820.96	64,087.87	14,807.90		128,175.74	31,628.86	159,804.60
SCVWD Central Zone	0	0	0	0		0	0	0
SCVWD North Central Zone		5,443.24		4,145.98		0	9,589.22	9,589.22
SCVWD General		1,047.14		749.44		0	1,796.58	1,796.58
El Camino Hospital		35.54		31.29		0	66.83	66.83
Bay Area Air Quality Management		1,041.40		916.77		0	1,958.17	1,958.17
Santa Clara Bridge District No. 1		78.35		68.97		0	147.32	147.32
Santa Clara County Importation Water - Misc. District		4,895.29		3,034.65		0	7,929.94	7,929.94
SCVWD West Central Zone		770.85		561.77		0	1,332.62	1,332.62
ERAF - To be allocated to the Local Educational Agencies within the Agency	0	0	0	121,842.84	[1]	0	121,842.84	121,842.84
TOTAL	643,893.64	441,392.72	643,893.64	380,649.33		1,287,787.28	822,042.05	2,109,829.33

[1] - Methodologies for Distribution of the fund to the Affected Local Educational Agencies were recommended by the State Controller Office's on August 13, 2012.

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City of Santa Clara Redevelopment Agency
Agreed Upon Procedures and Findings

Attachment D

AUP Work Performed on tracing of Cash Transfers

- **Obtained listing of Funds, Fund numbers, and their purpose.**
 - **Fund 901**-Bayshort North Project Area Operations-Paid for costs of this project area, other than costs related to capital projects or debt service.
 - **Fund 902**-University Project Area Operations-Paid for costs of this project area, other than costs related to capital projects or debt service.
 - **Fund 910**-Housing Authority 20 percent Capital Improvement Program-Paid for capital projects providing affordable housing, using the 20 percent set-aside of redevelopment agency tax increment revenue required to be used for affordable housing under State law.
 - **Fund 915**-Housing Authority 10 percent Capital Improvement Program-Also used for capital projects providing affordable housing, using an additional 10 percent set-aside of redevelopment agency tax increment revenue allocated to affordable housing by City Council policy.
 - **Fund 920**-Housing Fund 20 percent Tax Increment-Fund used to receive set aside for affordable housing purposes. Money from this fund is presumably transferred to Fund 910 to pay for specific projects as those projects are identified and executed.
 - **Fund 938**-University Project Area Capital Improvement Program-Fund used to pay for capital projects in the University Project Area in downtown Santa Clara.
 - **Fund 939**-Bayshore North Project Area Capital Improvement Program-Fund used to pay for capital projects in the Bayshore North Project Area.
 - **Fund 941**-Debt Service Bayshore North-Fund used to pay debt service on bond issues and other debt to finance capital improvement projects in the Bayshore North Project Area.
 - **Fund 942**-Debt Services University-Fund used to pay debt service on bond issues and other debt incurred to finance capital improvement projects in the University Project Area.
- Obtained audited financial statements as of June 30, 2010 and June 30, 2011.
- Obtained Trial Balances for June 30, 2011 Balance Sheets.
- Obtained Trial Balances for June 30, 2011 Income Statements.
- Obtained Trial Balances for January 31, 2012 Balance Sheets.
- Obtained Detail Data for transactions by fund, GLA and transaction.
- Isolated transactions that apply to RDA.
 - For the debt service funds (941, 942), no transactions were isolated because these funds remained RDA funds for the full year.
 - For Bayshore North Fund (939), isolated transactions prior to March 8, 2011.
 - For University Project (902, 938), isolated all transactions prior to March 8, 2011.
 - For Special Revenue Housing Funds (920, 910, 915) isolated all transactions prior to March 8, 2011.
- Obtained reconciliation of Fund Balance transfers.
- Created a worksheet of financial statements by General Ledger Account.
- Traced transactional detail to the financial statements.
- For housing funds, agreed amount to CAFR at 6/30/11 within a reasonable amount.

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December 5, 2012

Jeffrey V. Smith, County Executive
Santa Clara County
70 West Hedding St., 11th Floor, East Wing
San Jose, CA 95110

Dear Mr. Smith:

The City of Santa Clara, acting in its capacity as the Successor Agency to the former Redevelopment Agency of the City of Santa Clara ("RDA") is submitting these comments in response to the Draft Dissolution Audit of the RDA-Phase 2 Report ("AUP Report") issued by the Santa Clara County Auditor-Controller ("SCCAC"). It should be noted that the City's review of the Report is ongoing and the City may have additional comments and objections to the AUP Report.

The City has numerous objections and corrections to the AUP Report. This response will highlight the major objections but given the far ranging nature of the AUP Report, the voluminous nature of the AUP Report and the significant amount of incorrect information contained in the AUP Report, it is not possible to set forth all objections. The City would request that the SCCAC withdraw the AUP Report and replace the report with a report that is more in line with the requirements of the Redevelopment Dissolution Statute and the Agreed-Upon Procedures Engagement promulgated by the State Controller.

1. Scope of Report

Health and Safety Code Section 34182(a) requires the SCCAC to conduct or cause to be conducted an agreed-upon-procedures audit of each redevelopment agency. Section (a)(2) goes on to state the purpose of the audit "shall be to establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass through payment obligations to other taxing entities, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency pursuant to the initial Recognized Obligations Payment Schedule."

The California CPA Association in conjunction with the State Controller came up with Agreed-Upon Procedures for these audits, a copy of which is attached as Exhibit A. The SCCAC has far exceeded the scope of the intended audit in an apparent effort to discredit the City and the former RDA. The AUP guidelines established by the State Controller have generally been followed by other counties throughout the State and indeed, have also been

Jeffrey V. Smith, County Executive
County of Santa Clara
December 5, 2012
Page 2

followed by the SCCAC for other successor agencies in the County. There appears to be no justification for the extensive nature of this AUP Report other than furtherance of the County's continued mission of maligning redevelopment and the cities that sponsored redevelopment agencies.

The overreaching nature of this AUP Report represents a waste of taxpayer money given that the County has limited enforcement rights under the Dissolution Statutes, that the City is currently working with the State Controller on the completion of a similar audit which will take precedent over this AUP Report, and that AB 1484 requires the completion of a Due Diligence Review approved by the DOF that reaches many of the same issues and is designed to capture all of the unencumbered cash of the former redevelopment agency. The AUP Report serves no useful function with regards to the dissolution of the RDA; and in fact, is responsible for the delay in the completion of the Due Diligence Reports for the Housing Fund and the non-Housing Fund since the County has instructed the licensed accountants hired by the County to prepare these reports to not proceed with their review of the information prepared by the City until completion of this AUP Report. Delay of these due diligence reviews results in delay in the distribution of funds to the taxing entities. It is interesting to note that the SCCAC states in the report that non-allowed expenditures will be pursued under the remedies authorized by ABx1 26 and AB 1484 and then cites to Health and Safety Code Section 34179.6(h)(1)(B), the remedies for failure to comply with the findings of the Due Diligence Review.

2. Interpretation of the Dissolution Statute.

The AUP Report repeatedly misinterprets and misrepresents the ABx1 26 and AB 1484 (the "Dissolution Statute") in order to reach many of its conclusions. These errors include statements that the City, the Housing Authority and the Stadium Authority were prohibited from entering into agreements after June 27, 2011. The Dissolution Statute does not contain any prohibition on the actions of a city, a housing authority or joint powers entity. The only prohibitions are on actions of the former RDA. The vast majority of the AUP Report's conclusions rest on the interpretation that the City, the Housing Authority and the Stadium Authority were prohibited from entering into agreements committing assets transferred from the RDA to those entities.

The report also states on several occasions that AB 1484 specifies that the proceeds of bonds sold after December 31, 2010 must be used to redeem the bonds themselves. The Dissolution Statute contains no such statement, and in fact, is silent on the use of bond proceeds for bonds issued after December 31, 2010. The SCCAC cannot draw conclusions with regards to the use of the bond proceeds from the absence of statutory language.

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December 5, 2012
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Many of the conclusions of the report also rely upon an interpretation that commencing upon adoption of ABx1 26, all agreements between the City and the RDA became invalid. The Dissolution Statute is clear that agreements between the City and the RDA did not become invalid until the dissolution of the RDA on February 1, 2012. Prior to that time any such agreements remained valid and enforceable, and in fact were considered enforceable obligations for purposes of the preparation of an Enforceable Obligations Payment Schedule (EOPS). For example, the AUP Report repeatedly states that rents paid to the City for the City owned land between March 8, 2011 and January 31, 2012 must be paid over to the Successor Agency. Regardless of when the land transfers occurred, prior to February 1, 2012 when the RDA was dissolved, any agreements between the City and the RDA providing for the City retention of the lease revenues remained in full force and effect.

3. Gateway Property Transfer

The SCCAC finds that the Gateway Property Transfer and the 2000 Cooperation Agreement relating to that property violated the California Redevelopment Law (CRL) in effect at that time, and that the City misrepresented the nature of the transactions. The SCCAC's analysis of this transaction includes questioning the original appraisal prepared for the property transfer in 2000 and revaluing the property based on the SCCAC's determination of appropriate value. Not only are the SCCAC's conclusions regarding this transaction incorrect, but they rely upon analysis that is well beyond the scope of audit required by the Dissolution Act. The SCCAC, in the AUP Report, determined that the 2000 Cooperation Agreement had no business purposes at the time it was entered into and was against public policy. Health and Safety Code Section 33220 specifically provides that for the purposes of aiding in the planning, undertaking, construction or operation of a redevelopment project, any public body, with or without consideration may dedicate, sell or convey property to a redevelopment agency and enter into agreements with the agency. The 2000 Cooperation Agreement represents the City and the Agency working cooperatively, in accordance with Section 33220, to achieve the redevelopment of property located in the Redevelopment Project Area. The basic premise of the 2000 Cooperation Agreement was that the City would transfer City owned property to the RDA for purposes of the RDA transferring the property to a private developer. In exchange, the RDA would transfer to the City all rental revenue from the property. Aside from the redevelopment purposes of the arrangement, the agreements served an important public purpose by creating a long term revenue stream for the City consisting of rental revenues, thus making the general fund less dependent upon the vagaries of taxing revenues, while shielding the City from liability issues associated with land ownership.

The report also concludes that the amount paid to the City to date is in excess of the amount owed and includes a statement that the City owes the Successor Agency \$11 million related to payments made long before the dissolution process was under consideration by the State.

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To reach this conclusion, the SCCAC has to first determine that the value of the property was incorrect relying on anecdotal information regarding vacancy rates and valuations at the time the property transferred to the private party rather than the valuation at the time of the transaction between the City and the RDA, setting aside information provided in a detailed appraisal report prepared by a qualified appraiser at the time of the transaction. The SCCAC also then misinterprets the statute and recalculates the interest owed under the Cooperation Agreement at the Local Agency Investment Fund (LAIF) rate from the inception of the agreement and recalculates all payments made to date on the basis of the recalculated interest. Health and Safety Code Section 34191.4(b)(2) does not require that all past payments be recalculated at the LAIF rate but only the accumulated interest (i.e., interest unpaid) on the remaining principal balance due at the time that the Successor Agency requests that the Oversight Board reinstate the loan be recalculated. The AUP Report discussion on the Cooperation Agreement highlights the overbroad and punitive approach of the SCCAC's Audit. Although the Agreed-Upon Procedures guidelines require the SCCAC to review enforceable obligations, it should be noted that the City and Successor Agency have not listed the Cooperation Agreement as an enforceable obligation and have not requested repayment of the amounts remaining owed. Thus there is no purpose to the SCCAC's verbose diatribe on this agreement.

4. Land Transfers

The AUP Report discussion of land transfers contains numerous factual errors as well as misapplication of the Dissolution Statute. As noted above, the AUP Report claims that rents received by the City for land from March 8, 2011 through January 31, 2012 are the property of the Successor Agency. However, the City and the Agency had a long term cooperation agreement related to land transfers that provided for the Agency to pay to the City all rental revenue received by the Agency for those various properties. Regardless of any other transactions that occurred between the Agency and the City, under the Dissolution Statute, these agreements remained valid until February 1, 2012. The AUP Report in discussing the land transactions also notes repeatedly that the RDA's book value for property understates the value because it does not include the improvements on the property, however, except for the Convention Center itself, the improvements on the properties are owned by the private lessees and it would be inappropriate for the RDA to include those values in its accounts.

5. Capital Projects

The AUP Report reviews various capital project transfers and indicates that the funds transferred to the City to complete capital improvement projects are required to be returned to the Successor Agency without recognizing that only assets that are not committed to third parties are required to be returned to the Successor Agency. The AUP Report itself acknowledges that with regards to a substantial amount of the funds transferred to the City,

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there are third party contractual commitments obligating the City to the expenditure of these funds. These include the Tasman Garage construction which accounts for almost \$40 million, the library construction project which accounts for another \$19 million and assorted other construction projects.

Conclusion

The SCCAC has spent countless hours preparing the AUP Report, at the expense of the taxing entities, with the clear purpose of discrediting the City and the Successor Agency. Rather than allow the City and the Successor Agency to proceed with the Due Diligence Reviews which would provide similar information reviewed by a neutral third party, the SCCAC has taken it upon itself to review and question transactions dating back to the turn of the century. This despite the fact that the SCCAC has little enforcement authority under the Dissolution Statute and that the SCCAC is well aware that the City and the Successor Agency are working diligently with the State Controller on completion of the State Controller's Asset Transfer audit. Despite the lengthy delay in completion of this report, it contains numerous factual inaccuracies and represents a biased view of redevelopment couched in terms of neutral audit. The City reiterates its request that the SCCAC withdraw this draft AUP Report and allow the licensed accountants hired to prepare the due diligence review to complete their work based on their independent review of the information submitted by the Successor Agency.

Sincerely,



Ronald E. Garratt
Interim City Manager

REG:yfg

Enclosure

cc: Vinod Sharma, Director of Finance, County of Santa Clara
James Williams, Special Assistant to the County Executive
John Guthrie, RDA Project Manager, County of Santa Clara
Richard Nosky, City Attorney
Alan Kurotori, Assistant City Manager
Gary Ameling, Director of Finance
Karen Tiedemann, Esq.

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**Attachment A—Agreed-Upon Procedures Engagement
Pursuant to ABX1 26, Community Redevelopment Dissolution**

Purpose: To establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial recognized obligation payment schedule. [Health and Safety Code section 34182(a)(2)]

In conformity with attestation standards, the language in each separate report for each agency will need to be specific as to the type of documents that were examined in performing the procedure.

A. RDA Dissolution and Restrictions

For each redevelopment agency dissolved, perform the following:

1. Obtain a copy of the enforceable obligation payment schedule (EOPS) for the period of August 1, 2011, through December 31, 2011. Trace the redevelopment project name or area (which ever applies) associated with the obligations, the payee, a description of the nature of the work/service agreed to, and the amount of payments made by month through December 31, 2011, and compare it to the legal document(s) that forms the basis for the obligations. Since amount could be estimated, determine that they are stated as such and that legal documentation supports those estimates.
2. Obtain a copy of all amended EOPS filed during the period of January 1, 2012, through June 30, 2012. Trace the redevelopment project name or area (which ever applies) associated with the obligations, the payee, a description of the nature of the work/service agreed to, and the amount of payments to be made by month through June 30, 2012, and compare it to the legal documents that forms the basis for the obligations. Again, since amount could be estimated, determine that they are stated as such and that legal documentation supports those estimates.
3. Identify any obligation listed on the EOPS that were entered into after June 29, 2011, by inspecting the date of incurrence specified on Form A of the Statement of Indebtedness filed with the County Auditor-Controller, which was filed on or before October 1, 2011.
4. Inquire and specifically state in the report the manner in which the agency did or did not execute a transfer of the Low and Moderate Income Housing Fund to the redevelopment successor agency by February 1, 2012. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the successor agency. If the successor agency is a party other than the agency that created the redevelopment agency, an examination of bank statements and changing of account titles and fund names evidencing such transfer will be sufficient.
5. Inquire and specifically state in the report how housing activities (assets and functions, rights, powers, duties, and obligations) were transferred and the manner in which this agency did or did not execute a transfer. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the other agency. An examination of bank statements and changing of account titles and fund names evidencing such transfers will be sufficient. If the housing successor is a party other than the agency that created the redevelopment agency, an examination of bank statements and re-recording of titles evidencing such transfer will be sufficient.

B. Successor Agency

1. Inspect evidence that a successor agency (A) has been established by February 1, 2012; and (B) the successor agency oversight board has been appointed, with names of the successor agency oversight board members, which must be submitted to the Department of Finance by May 1, 2012.
2. Inquire regarding the procedures accomplished and specifically state in the report the manner in which this agency did or did not execute a transfer of operations to the successor agency, which was due by February 1, 2012. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the successor agency. If the successor agency is a party other than the agency that created the redevelopment agency, an examination of bank statements and changing of account titles and fund names evidencing such transfers will be sufficient.
3. Ascertain that the successor agency has established the Redevelopment Obligation Retirement Fund(s) in its accounting system.
4. Inspect the EOPS and ROPS and identify the payments that were due to be paid through the date of the AUP report: Select a sample (based on a dollar amount and/or percentage amount as determined by the _____ County Auditor-Controller) and compare the payments that were due to be paid through the date of the AUP report to a copy of the cancelled check or other documentation supporting the payment.
5. Obtain listings that support the asset figures (cash, investments, accounts receivable, notes, receivables, fixed assets, etc.) in the audited financial statements as of June 30, 2010, June 30, 2011, or the agency's fiscal year ending _____, and as of January 31, 2012, as determined by the successor agency and include as an attachment to the AUP report.

C. Recognized Obligation Payment Schedule (Draft ROPS)

- Obtain a copy of the initial draft of the ROPS from the successor agency.
1. Inspect evidence that the initial draft of the ROPS was prepared by March 1, 2012.
 2. Note in the minutes of the Oversight Board that the draft ROPS has been approved by the Oversight Board. If the Oversight Board has not yet approved the draft ROPS as of the date of the AUP, this should be mentioned in the AUP report.
 3. Inspect evidence that a copy of the draft ROPS was submitted to the County Auditor-Controller, State Controller, and Department of Finance.
 4. Inspect evidence that the draft ROPS includes monthly scheduled payments for each enforceable obligation for the current six-month reporting time period.
 5. Select a sample (based on dollar amount and/or percentage amount as determined by the _____ County Auditor-Controller) and trace enforceable obligations listed on the draft ROPS to the legal document that forms the basis for the obligation.
 6. Trace the obligations enumerated on the draft ROPS to the obligations enumerated on the EOPS (including amendments) and note any material differences as agreed to by the _____ County Auditor-Controller.

D. Recognized Obligation Payment Schedule (Final ROPS)

- Obtain a copy of the final ROPS (January 1, 2012, through June 30, 2012) from the successor agency.
 1. Inspect evidence that the final ROPS was submitted to the County Auditor-Controller, the State Controller, and Department of Finance by April 15, 2012, and is posted on the website of the City/County as successor agency (Health and Safety Code section 34177(2)(C)).
 2. Inspect the final ROPS and identify the payments that were due to be paid through the date of the Agreed-Upon Procedures report. For payments on the ROPS that were identified as being due through the date of the Agreed-Upon Procedures report, inspect evidence of payment and determine that amounts agree to the purpose of the obligation as amounts could be estimated.
 3. Select a sample (based on a dollar amount and/or percentage amount as determined by the _____ County Auditor-Controller) and trace enforceable obligations listed on the final ROPS to the legal agreements or documents that forms the basis for the obligation.

E. Other Procedures

- Obtain a list of pass-through obligations and payment schedules.
 1. Obtain a list of pass-through obligations and payments made from the successor agency from July 1, 2011 through January 31, 2012, inspect evidence of payment, and note any differences from the list of pass-through obligations and payments made.
- Issue Agreed-Upon Procedures Report and distribute to the California State Controller by July 15, 2012.

Attachment F

Reply to City Letter

This is in response to the Interim City Manager Ronald E. Garratt's letter of December 5, 2012 to County Executive Jeffrey V. Smith, which raised objections and suggested corrections to the AUP report. The points in that letter were also discussed in an exit conference held that same day between City and County staff and consultants. In addition, on Friday, December 7, the County received a marked-up copy of the AUP report from Mr. Gary Ameling, the City Finance Director, which was thoroughly reviewed. As a result, several corrections and clarifications were made to the report, most significantly regarding the lease revenues to be returned. However, where there was clear disagreement as to the report's findings, legal interpretations or whether a transaction was to be allowed or disallowed under the law, the report's findings remained. As one would expect, in a report where remaining assets on the Agency's trial balance at January 31, 2012 were \$17.9 million and were adjusted up to \$320 million in the report, there were numerous such disagreements.

We offer the following responses to the letter's specific comments:

Issue 1: Broad Scope of Audit.

Response: H&S Code § 34182(a) imposes an affirmative duty on county auditor-controllers to, among other things, "establish each redevelopment agency's assets and liabilities." This duty is independent of any responsibilities the State Controller may have under the Redevelopment Dissolution Law or what may occur pursuant to the due diligence reviews, and the County Auditor-Controller takes this responsibility very seriously.

Before beginning the AUPs, the County Auditor-Controller established a list of items that were to be addressed in the AUPs for all former RDAs with the goal of using a consistent methodology for all. The same Agreed Upon Procedures were used for all nine reviews of former RDAs within Santa Clara County. However, once the AUPs were begun, it was apparent that the nine former RDAs had significantly different financial circumstances that did not allow for a uniform approach in determining each RDA's assets and liabilities. Where alternative methods were used, they are noted in our response to the AUPs themselves.

For example, the fact that the former Santa Clara RDA transferred virtually all of its assets to the City of Santa Clara and Santa Clara Housing Authority in March 2011 created significant complications with respect to determining the former RDA's assets and liabilities as of February 1, 2012. Because H&S Code § 34167.5 expressly states that these transfers were "unauthorized," the County Auditor-Controller spent substantial time attempting to follow the assets to determine what the former RDA's assets should have been had the transfers to the City and Housing Authority not occurred. Other reviews, such as of the Gateway properties, stemmed from transactions that were quite unusual in nature and effect, and required significant historical and factual research before they could be fully understood and properly characterized.

Moreover, the fact that the City relabeled funds without striking a trial balance required extensive accounting work. We have been equally thorough and complete in the completion of all AUPs, as appropriate for the circumstances of each former RDA.

Issue 2: Interpretations of the Dissolution Statute

Response: The County Auditor-Controller acknowledges that the Redevelopment Dissolution Law is subject to varying interpretations. This is not uncommon with a relatively new and controversial law. However, the County Auditor-Controller consulted closely with County Counsel when issues of legal interpretation and application arose, and made every attempt to follow the spirit and letter of the law. As requested by the City, Narrative Section 2 now includes a statement to that effect under Assumptions.

Issue 3: Analysis of Gateway Property Transfer

Response: The Gateway property transaction was complex and unusual, and required a significant amount of investigative work to determine what actually transpired. The County Auditor-Controller acknowledges that H&S Code § 33220 allows a public agency to assist with redevelopment by, among other things, selling or leasing property to an RDA. However, this provision does not give an RDA and another public agency license to structure transactions in such a way that they essentially serve as a mechanism for transferring RDA tax increment or other agency revenue to another public agency without any reasonable relation to the value of the property transferred to the RDA.

Although the original agreement between the City and RDA contemplated that the City would ultimately convey all *three* Gateway parcels to the RDA, as of 2011 only *one* parcel (Parcel 2) had actually been conveyed. (In March 2011, this parcel was reconveyed back to the City and according to law this was “unauthorized.”) Once the Redevelopment Dissolution Law took effect, the possible future conveyance of the remaining two parcels was eliminated. Thus, in order to properly characterize the RDA’s assets and liabilities, the County Auditor-Controller needed to ascertain the reasonable value of the one parcel conveyed (Parcel 2). The County Auditor-Controller analyzed all of the information available, which included: (1) the 2000 appraisal by Sedway Group commissioned by the City, which valued Parcel 2 at between \$37.5 and \$52.6 million; (2) information from the County Assessor, which valued Parcel 2 at \$26.9 million in 2004; and (3) the informal valuation by Keyser Marston Associates in 2011, which valued Parcel 2 at \$40 million and which was used as a basis for the transfer back to the City. Ultimately, the County Auditor-Controller concluded that a reasonable value of Parcel 2 was \$40 million. However, the AUP expressly acknowledges that the County Auditor-Controller does not have expertise in land valuation and we are aware that there are sufficient comparable transactions in 2005, which would permit an independent appraisal going back to 2005 values should the Oversight Board or State so require.

While the City has criticized the valuation methodology, it has not offered one comment refuting the facts stated in the analysis or the conclusion that the value of transferred land and loan principal was erroneously overstated when booked in 2005.

With respect to the determination that the City owes the Successor Agency \$11 million from the Gateway Parcel 2 transaction, based on information provided by Mr. Ameling this has been adjusted to \$8.4 million. However, the County Auditor-Controller determined that the May 2005 amendment to the agreement between the City and RDA for the Gateway properties was not an arms-length transaction and resulted in a significant overstatement of the loan. In one action, a zero loan balance became \$142 million for a \$40 million parcel. This was caused by an overstatement of \$61 million in principal and \$41 million in retroactive interest. This immediate \$102 million overstatement resulted in the RDA significantly overpaying the City for the property. The overvaluation resulted from basing the value of Parcel 2 on the highest appraised value for *all three* Gateway parcels from the 2000 Sedway Group appraisal (\$101 million). The Redevelopment Dissolution Law does provide a mechanism for reestablishing non-arms-length loans between a former RDA and the city that created it. (*See* H&S Code § 34191.4(b).) Consequently, the County Auditor-Controller determined that recalculating the loan at LAIF rates would be an appropriate way to re-value the 2005 non-arms-length loan between the City and former RDA for Gateway Parcel 2.

Equally important, in 2011, the City applied a \$137 million reduction against the loan. In reality, because of the overstated valuations, there was nothing to credit against. The \$137 million loan reduction was intended by the City to be consideration for several agency properties transferred to the City in March 2011. In the marked-up AUP from Mr. Ameling, he repeatedly states that certain transferred properties were paid for by the City. As the AUP findings indicate, in reality, the \$137 million reduction to a nonexistent loan balance (actually an overpaid balance) represented zero consideration for the transferred properties from the City to the RDA in March 2011.

Issue 4: Validity of Cooperation Agreements Between Former RDA and City

Response: The City asserts that the February 2011 cooperation agreement between the former RDA and the City for the wholesale transfer of the former RDA's assets remained valid until February 1, 2012. Presumably this assertion is based on the fact that the California Supreme Court stayed the application of Part 1.85 of ABX1 26 until February 1, 2012. However, H&S Code § 34167.5, which was not stayed, provides that "a transfer of assets by a redevelopment agency during the period covered in this section [January 1, 2011 through June 27, 2011] is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized." Thus, the transfers of cash and other assets (such as contract rights) from the RDA to the City and Housing Authority in March 2011 were void ab initio. This clear statement of law is not contingent upon any interpretation or determination by the State Controller.

Issue 5: Ongoing Capital Projects

Response: The County Auditor-Controller acknowledges that contracts for capital improvement projects that were entered into between the former RDA and third parties prior to June 28, 2011 constitute valid third-party contractual commitments. However, with respect to the vast majority of contracts in question, the City (not the RDA) was the contracting party. Therefore, these contracts do not constitute third party contractual commitments *of the RDA*. We note that

Narrative Sections 7 and 8 discuss these contracts in detail, and those contracts that were indeed pre-existing RDA liabilities are reflected on Schedule 3 (establishment of liabilities).