



OVERSIGHT BOARD TO THE CITY OF WINTERS SUCCESSOR AGENCY TO
THE WINTERS COMMUNITY DEVELOPMENT AGENCY

City Council Chambers
318 First Street
Monday, June 3, 2013

2:00 p.m. – Regular Meeting

AGENDA

Members of the Oversight Board

Harold Anderson- City of Winters
Sarah Chapman- Solano College District
Diane Cirolini- Yolo County Office of Education
Larry Justus- Winters Cemetery District
Nanci Mills- City of Winters CDA Employees
Jiley Romney- Yolo County Public Appointee
Don Saylor- Yolo County

Staff to Oversight Board

John W. Donlevy, Jr., City Manager
Shelly Gunby, Director of Financial Management
Dan Maguire, Housing Programs Manager
Mary Jo Rodolfa, Secretary to Oversight Board

PLEASE NOTE – The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Chairman of other Board Members. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

BOARD COMMENTS

PUBLIC COMMENTS

At this time, any member of the public may address the Oversight Board on matters, which are not listed on this agenda. Citizens should reserve their comments for matter listed on this agenda at the time the item is considered by the Board. An exception is made for members of the public for whom it would create a hardship to stay until their item is heard. Those individuals may address

the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

CONSENT CALENDAR

All matters listed under the consent calendar are considered routine and non-controversial, require no discussion and are expected to have unanimous Board support and may be enacted by the Oversight Board in one motion in the form listed below. There will be no separate discussion of these items. However, before the Oversight Board votes on the motion to adopt, members of the Oversight Board, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Item(s) removed will be discussed later in the meeting as time permits.

- A. Minutes of the March 4, 2013 meeting of the Oversight Board to the City of Winters Successor Agency to the Winters Community Development Agency. (pp 1-3)

PRESENTATIONS

None at this meeting.

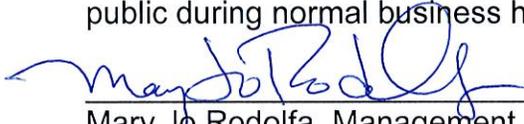
DISCUSSION ITEMS

1. Results of State Controller Property Transfer Audit (pp 4-23)
2. Resolution OB 2013-05 Resolution to transfer housing notes receivable to the Housing Successor Agency (pp 24-49)
3. Results of ROPS 13-14A Review by Department of Finance (pp 50-53)
4. Results of Due Diligence Review of Other Funds Accounts (Non-Housing) (pp 54-58)
5. 5/28/13 Meet and Confer Status on Due Diligence Review Other Funds Accounts (p 59)

STAFF REPORT

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the June 3, 2013 regular meeting of the Winters Oversight Board was personally delivered to each Board member by electronic mail, and by United States Postal Service in a sealed envelope with postage prepaid and posted on the outside public bulletin board at City Hall, 318 First Street on May 29, 2013, and made available to the public during normal business hours.



Mary Jo Rodolfa, Management Analyst

Questions about this agenda – Please call the City Manager’s office at (530) 795-4910 ext. 110. Agendas and staff reports are available on the city web page www.cityofwinters.org

General Notes: Meeting facilities are accessible to persons with disabilities. To arrange aid or services to modify or accommodate persons with disability to participate in a public meeting, contact the City Clerk.

Staff recommendations are guidelines to the Oversight Board. On any item, the Board may take action, which varies from that recommended by staff.

The city does not transcribe its proceedings. Anyone who desires a verbatim record of this meeting should arrange for attendance by a court reporter or for other acceptable means of recordation. Such arrangements will be at the sole expense of the individual requesting the recordation.

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City Clerk’s Office – City Hall – 318 First Street

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MINUTES OF THE OVERSIGHT BOARD TO THE CITY OF WINTERS SUCCESSOR
AGENCY TO THE WINTERS COMMUNITY DEVELOPMENT AGENCY

City Council Chambers
318 First Street
Monday, March 4, 2013

2:00 p.m. – Regular Meeting

Board Chair Justus called the meeting to order at 2:07 p.m.

Present – Board Members Cirolini, Mills, Chapman, Romney, Saylor, and Chair Justus
Board Member Anderson (arrived 2:53 p.m.)

Staff Present – City Manager John W. Donlevy, Jr., Director of Financial Management
Shelly Gunby, Economic Development & Housing Manager Dan Maguire.

Pledge of Allegiance – Larry Justus, Oversight Board Chair

Approval of Agenda – Board Member Chapman motioned to approve the agenda, second
by Board Member Romney. Motion approved unanimously with one absent.

BOARD COMMENTS - None

PUBLIC COMMENTS - None

CONSENT CALENDAR

A. Minutes of the February 4, 2013 meeting of the Oversight Board to the City of Winters
Successor Agency to the Winters Community Development Agency.

Board Member Mills moved to approve the minutes of the February 4, 2013 meeting of
the Winters Oversight Board, second by Board Member Saylor. Motion approved
unanimously with one absent.

PRESENTATIONS

None at this meeting.

DISCUSSION ITEMS

1. Consideration of Resolution OB 2013-03 (corrected by Director of Finance Gunby from OB 2013-02, as published in the original agenda packet) of the City of Winters as Successor Agency to the Winters Community Development Agency Adopting a Recognized Obligation Payment Schedule Pursuant to AB1X 26.

Director of Financial Management Gunby introduced the item and reviewed the revised ROPS report with the board, noting that the ROPS for the period July 1, 2013 through December 31, 2013 and was due March 1, 2013. The revised ROPS was being submitted late under the direction of the Department of Finance ("DOF") based on the discussions with DOF during the March 20, 2013 Meet and Confer regarding the \$1,144,010 in Housing Bond proceeds. DOF recommended the aforementioned Housing Bond proceeds be included on the ROPS and noted that the Board had approved this ROPS previously on February 4, 2013, without the bond proceeds listed. Per Gunby, the addition of the bond proceeds was the only change to the previously approved ROPS. Board member Saylor asked what the position of DOF was regarding the bond proceeds and was informed the position of DOF remained unchanged in that they still considered the bond proceeds unencumbered. DOF suggested the item be added to this ROPS so that when the City received its' Notice of Completion (aka Golden Ticket), because they were already on a ROPS approved by the Oversight Board, the Housing Successor Agency could then use them for the purposes outlined in the bond covenants (affordable housing). Board member Cirolini asked for a clarification on ROPS line item 17 (Low Moderate Income Housing Fund) and was informed the \$11,928,487 was added back to this ROPS based on a demand letter from Legal Services of Northern California and approved by the Oversight Board at the previous meeting. Board member Saylor asked for clarification on ROPS line item 15, which now showed a zero balance for the Winters Cemetery District and was informed the item had been disallowed by DOF and was thus locked by them. The City of Winters Successor Agency is working with the County to facilitate that payment through the County's lead role in implementing pass-through agreements. Board member Saylor moved the resolution, seconded by Board member Chapman, unanimous with one absent.

2. Consideration of Resolution OB 2013-04 (corrected from OB 2013-03 as published in the original agenda packet) of the City of Winters as Successor Agency to the Winters Community Development Agency and Approve the Report on the Due Diligence Review ("DDR") of All Other Funds of the Successor Agency and Determining the Amount of Cash and Cash Equivalents that are available for disbursement to the other taxing agencies.

Gunby then walked the board through the item before them, explaining that they had approved the DDR at their December 2012 meeting but as DOR had just started their review of the document and had contacted Gunby for a copy of the authorizing resolution, which she had not included in the board packet when the board approved the item in December. She explained that this resolution was necessary for DOF to proceed with their review.

Board member Cirolini asked if language could be added to the resolution indicating the Oversight Board approved this in December 2012 and indicated the date noted for the December meeting needed to be verified. She also questioned the wording in Section 5 of the resolution, which stated the Oversight Board had received a copy of the report and determined those assets and funds should be retained by the Successor Agency. She indicated she did not feel that accurately reflected the role of the Oversight Board and asked the resolution be amended to include language that the Oversight Board reviewed and accepted the resolution report and accepts the amount of cash and cash equivalents. Motion as amended by Board member Saylor, seconded by Board member Romney, unanimous with one absent.

3. Status Update on AB 1X 26 Clean Up Legislation – Information Item

City Manager Donlevy reported that there was not much; however there are many new bills in the Assembly and Senate to reconstitute redevelopment. The City Manager working group is tracking with a list of lawsuits that have been filed relative to AB 1X 26 (over 100) and will be heard by 5 different judges in Sacramento Superior Court. He indicated a need to continue to monitor the situation.

4. Status Update on Meet and Confer - Information Item

Donlevy commented that the appeal of the City as Housing Successor Agency regarding the Housing Bond Proceeds was denied by the DOF.

ADJOURNMENT – The meeting was adjourned at 2:54 p.m.

Larry Justus, Chair

ATTEST:

Oversight Board Secretary



**OVERSIGHT BOARD FOR THE CITY OF WINTERS AS SUCCESSOR AGENCY TO THE
WINTERS COMMUNITY DEVELOPMENT AGENCY**

TO: Honorable Chairperson and Members of the Oversight Board of the
Successor Agency to the Dissolved Winters Community Development
Agency.

DATE: June 3, 2013

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly A. Gunby, Director of Financial Management *Shelly*

SUBJECT: Results of the Asset Transfer Review by the California State Controller's
Office.

RECOMMENDATION:

That the Oversight Board to the City of Winters as Successor Agency to the Winters Community Development Agency receive the attached report from the California State Controller's Office..

BACKGROUND

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office reviewed all asset transfers made between the Winters Community Development Agency and the City of Winters, or other public agencies after January 1, 2011.

The State Controller's Office issued 2 findings:

1. Unallowable asset transfer to the City of Winters:

The State Controller is ordering the return of the (7) properties transferred to the City of Winters in payment of amounts due from the Winters Community Development Agency to the City of Winters. These properties are listed on page 6 of the State Controller's Report. These properties were identified to the Oversight Board as potential issues between the State of California and the City of Winters during our first Oversight Board Meeting in which we gave an overview of the Redevelopment Agency, AB1X 26 and the actions taken by the City of Winters in response to AB1X26, The City has agreed to transfer the properties back to the Successor Agency, and will be coming forward, hopefully, in July with a Property Management Plan for the Board to approve and submit to the Department of Finance with information regarding the management and potential disposition of the properties.

2. Unallowable asset transfer to entity assuming housing functions.

The State Controller's Office is ordering the return of the unspent 2007 Tax Allocation Housing Bond Proceeds to the Successor Agency for action by the Oversight Board . This amount

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was also an issue with the Department of Finance, and the unspent bond proceeds were included on the 13-14A ROPS that was submitted to the Department of Finance on March 4, 2013. The amount was approved on April 13, 2013.

The State Controller also order the return to the Successor Agency of the Notes Receivables due to the former Redevelopment Agency for the purchase of Low Income homes by citizens of Winters. According to the State Controller's office, the transfer was not made according to Health and Safety Code Section 34181(c), which the State Controller's office says required the Oversight Board to approve the transfer of Housing Assets to the Housing Successor Agency. The State Controller does not disagree that the Notes are housing assets, but rather, that they were transferred to the Housing Successor Agency without Oversight Board approval. The assets were transferred to the Housing Successor Agency on February 1, 2012 as ordered by AB1X26, before the Oversight Board was in existence. Included on this agenda, is a resolution of the Oversight Board directing staff to transfer the Notes in question to the Housing Successor Agency pursuant to Health and Safety Code Section 34181(c).

ATTACHMENTS:

Asset Transfer Review

WINTERS COMMUNITY DEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

May 2013



JOHN CHIANG
California State Controller

May 13, 2013

John W. Donlevy, Jr., City Manager
Winters Community Development/
Successor Agency
318 First Street
Winters, CA 95694

Dear Mr. Donlevy:

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

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

Our review found that the Winters Community Development Agency transferred \$17,896,328 in assets, which included unallowable transfers of assets totaling \$3,470,411, or 19.39%, that must be turned over to the Successor Agency.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/nh

Attachment

cc: Shelly Gunby, Director of Financial Management
City of Winters
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Steven Szalay, Local Government Consultant
California Department of Finance
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Mathew Rios, Auditor-in-Charge
Division of Audits, State Controller's Office
Kevin Kanemasu, Auditor
Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

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

Our review found that the Winters Community Development Agency (RDA) transferred \$17,896,328 in assets, which included unallowable transfers of assets totaling \$3,470,411 or 19.39%, that must be turned over to the Successor Agency.

Background

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

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

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

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

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

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

**Objectives, Scope,
and Methodology**

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

We performed the following procedures:

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

Conclusion

Our review found that the Winters Community Development Agency transferred \$17,896,328 in assets, which included unallowable transfers of assets totaling \$3,470,411, or 19.39%, that must be turned over to the Successor Agency.

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

**Views of
Responsible
Official**

We issued a draft review report on March 15, 2012. John W. Donlevy, Jr., City Manager, responded by letter received April 4, 2013. The City's response is included in this final review report.

Restricted Use

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

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

May 13, 2013

Findings and Orders of the Controller

**FINDING 1—
Unallowable asset
transfer to the City
of Winters**

The Winters Community Development Agency (RDA) made an unallowable asset transfer of \$1,954,533, to the City of Winters. The asset transfer to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On March 16, 2011 the RDA transferred \$1,954,533 in capital assets to the City. To accomplish the transfer, on March 1, 2011 the City and the RDA entered into a purchase and sale agreement under Resolution 2011-16.

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

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

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

Order of the Controller

Based on H&S Code section 34167.5, the City of Winters is ordered to reverse the transfer of the above assets, as described in Schedule 1, in the amount of \$1,954,533 plus any interest earned, and return the assets to the Successor Agency.

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

City's Response

The City will transfer the six (6) properties identified on Schedule 1 to the Successor Agency.

SCO's Comment

The SCO agrees with the statement made by the City of Winters Community Development Successor Agency. The order remains the same.

**FINDING 2—
Unallowable asset
transfer to entity
assuming housing
functions**

The Winters Community Development Agency (RDA) made an unallowable asset transfer of \$1,515,878 described in Schedule 2, to the entity assuming housing functions. The asset transfers occurred during the period of January 1, 2011, through February 1, 2012, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

On January 31, 2012, the RDA transferred a total of \$1,515,878 in loan receivables to the entity assuming housing functions. Based on Health and Safety (H&S) Code section 34177(e), the Successor Agency, not the entity assuming the housing functions, is responsible for the disposition of assets and properties of the former RDA.

H&S Code section 34175(b) states, "All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012." Pursuant to H&S Code section 34175(b) the RDA was required to transfer all assets, including housing assets, to the Successor Agency.

H&S Code section 34177(d) states, "Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency . . . for allocation and distribution...[in accordance with] . . . Section 34188."

Pursuant to H&S Code section 34177(e) the "Successor Agency is to dispose of all former RDA assets . . . as directed by the oversight board . . ." Also, pursuant to H&S Code section 34177(g) the Successor Agency is to "[e]ffectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176." However, H&S Code section 34181(c) requires the Oversight Board to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to Section 34176.

Order of the Controller

Based on H&S Code section 34167.5, the entity assuming the housing functions is ordered to reverse the transfer of assets in the amount of \$1,515,878, and to turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e) and 34181(c).

City's Response

The City is in disagreement with part of finding 2. Attachment 2 contains a copy of the City's response.

SCO's Comment

The SCO is in agreement that the City will transfer the remaining bond proceeds in the amount of \$1,144,009.80 to the Successor Agency.

In addition, the SCO is in agreement with H&S Code section 34176, that the City may become the housing entity and take over the housing assets. However, pursuant to H&S Code section 34175(b), the assets of the former RDA were to be transferred to the Successor Agency first. Also, according to H&S Code section 34181(c), the Oversight Board is to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to H&S Code section 34176.

Although the Department of Finance (DOF) did not object to the transfer of the housing loans and receivables by the RDA in the amount of \$371,845.78 that was included on the Housing Asset Transfer (HAT) form, the transfer was not completed in accordance with H&S Code section 34181(c), which clearly states that the Oversight Board, not the RDA, is to direct the transfer of housing assets to the designed housing agency. The information that was required to be on the HAT report related solely to transfers made after February 1, 2012, by the Successor Agency with the approval of the Oversight Board. In discussions with DOF, they concurred that their lack of "objection" to housing asset transfers by the RDA on the HAT report does not mean they do not have to be approved by the Oversight Board.

Therefore, this part of the finding and order of the Controller remains the same.

**Schedule 1—
RDA Assets Transferred to the City of Winters
January 1, 2011, through January 31, 2012**

Unallowable Transfers to the City of Winters

<u>Capital Assets</u>	<u>Assessor Parcel Number</u>	<u>Value</u>
23 Main Street	003-204-006	\$ 173,691
East Grant Avenue	003-370-028, 003-370-029, 003-370-030	681,823
311 First Street	003-204-002	458,141
314 Railroad Avenue	003-204-006	351,399
318 Railroad Avenue	003-204-005	<u>289,479</u>
Total Unallowable Assets Transferred		<u>\$ 1,954,533</u>

**Schedule 2—
RDA Assets Transferred to the
Entity Assuming Housing Functions
January 1, 2011, through January 31, 2012**

Unallowable Transfers to the Entity Assuming Housing Functions:

Loans/Grants Receivables	\$ 1,515,878
Total Unallowable Assets Transferred	<u>\$ 1,515,878</u>

**Attachment—
City's Response to
Draft Review Report**



VIA CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

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

Re: SCO Draft report re Transfers by Winters Community Development Agency

Dear Mr. Mar:

I am writing in response to the SCO's Draft Asset Transfer Review Report, received by the City of Winters on March 22, 2013, to the Winters Successor Agency regarding asset transfers made by the former Winters Community Development Agency to the City of Winters after January 1, 2011. The following are the Successor Agency's comments to the Draft Report.

Summary (p. 1) and Conclusion (p. 2)

For the reasons more fully set forth in the response to Finding 2, we dispute the finding that there was an unallowable transfer of assets totaling \$3,470,411, or 19.39% that must be turned over the City of Winters Redevelopment Successor Agency. Specifically, we dispute Finding 2 as to the loans and receivables in the amount of \$371,845.78. Those assets were properly transferred to the City of Winters as the Housing Successor.

It is difficult to know exactly what assets were the Controller identified as having been transferred since Schedule 1 – RDA Assets Transferred to the Entity Assuming Housing Functions simply states an amount attributable to "Loans/Grants/Receivables" of \$1,515,878. There is no breakdown as to what loans, grants or receivables are at issue. The bulk of the asset transfer to the Housing Successor was bond proceeds of approximately \$1.14 million; bond proceeds are not loans, grants or receivables. Nevertheless, we are not challenging the finding that the remaining housing bond proceeds should be transferred to the Successor Agency.

Finding 1

The City will transfer the six (6) properties identified on Schedule 1 to the Successor Agency.

318 First Street Winters, CA 95694 Phone: 530.995.4935 Fax: 530.795.4935	COUNCIL MEMBERS Harold Anderson Wade Cowan Michael Martin	MAYOR Cecilia Aguilar-Curry MAYOR PRO TEM Woody Fridae	CITY CLERK Nancy Mills TREASURER Michael Sebastian	CITY MANAGER John W. Donlevy, Jr.
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Finding 2

The City disputes a portion of Finding 2 and believes that the loans and receivables in the amount of \$371,845.78 should not be transferred to the Successor Agency. The SCO report cites Health and Safety Code sections 34175(b) and 34177(d) and (e) as authority for ordering the transfer of the “loan receivables” to the Successor Agency. It ignores the clear language of Health and Safety Code section 34176, which provides, in relevant part, as follows:

“(a)

(1) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations, and housing assets, as defined in subdivision (e), excluding any amounts on deposit in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county.

(2) The entity assuming the housing functions of the former redevelopment agency shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified in subdivision (e). The Department of Finance shall prescribe the format for the submission of the list. The list shall include assets transferred between February 1, 2012, and the date upon which the list is created. The department shall have up to 30 days from the date of receipt of the list to object to any of the assets or transfers of assets identified on the list. If the Department of Finance objects to assets on the list, the entity assuming the housing functions of the former redevelopment agency may request a meet and confer process within five business days of receiving the department objection. If the transferred asset is deemed not to be a housing asset as defined in subdivision (e), it shall be returned to the successor agency and the provision of Section 34178.8 may apply. If a housing asset has been previously pledged to pay for bonded indebtedness, the successor agency shall maintain control of the asset in order to pay for the bond debt.....

(c) Commencing on the operative date of this part, the entity that assumes the housing functions formerly performed by the redevelopment agency and receives the transferred housing assets may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)), including, but not limited to, Section 33418.

(d) Except as specifically provided in Section 34191.4, any funds transferred to the city, county, or city and county or designated entity pursuant to this section, together with any funds generated from housing assets, as defined in subdivision (e), shall be maintained in a separate Low and Moderate Income Housing Asset

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Fund which is hereby created in the accounts of the entity assuming the housing functions pursuant to this section. Funds in this account shall be used in accordance with applicable housing-related provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(e) For purposes of this part, "housing asset" includes all of the following:

(1) Any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low- and moderate-income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds.

(2) Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)) unless required in the bond covenants to be used for repayment purposes of the bond.

(3) Any loan or grant receivable, funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(4) Any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.

(5) A stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing.

(6)

(A) Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund pursuant to subparagraph (G) of paragraph (1) of subdivision (d) of Section 34171, which shall be used consistent with the affordable housing requirements in the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

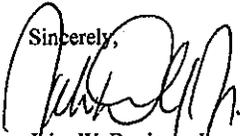
(B) Loan or deferral repayments shall not be made prior to the 2013-14 fiscal year. Beginning in the 2013-14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this paragraph and subdivision (b) of Section 34191.4 combined shall be equal to one-half of the

increase between the amount distributed to taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year. Loan or deferral repayments made pursuant to this paragraph shall take priority over amounts to be repaid pursuant to subdivision (b) of Section 34191.4.

(f) If a development includes both low- and moderate-income housing that meets the definition of a housing asset under subdivision (e) and other types of property use, including, but not limited to, commercial use, governmental use, open space, and parks, the oversight board shall consider the overall value to the community as well as the benefit to taxing entities of keeping the entire development intact or dividing the title and control over the property between the housing successor and the successor agency or other public or private agencies. The disposition of those assets may be accomplished by a revenue-sharing arrangement as approved by the oversight board on behalf of the affected taxing entities....” (underlining added.)

In accordance with subsection (a)(2), above, the City, as the housing successor, completed the Housing Asset Transfer form issued by the state Department of Finance (“DOF”), and received approval of the transfer of all of the loans and receivables. A copy of DOF March 2, 2013 letter is enclosed. The outstanding loans and receivables that were transferred to the Housing Successor fall within the definition of “housing asset,” above, and are properly being held by the City as the Housing Successor. The loans were all made to first-time homebuyers or to assist with the construction or rehabilitation of affordable housing. Therefore, the City will not transfer these housing assets to the Successor Agency. It will transfer the remaining housing bond proceeds in the amount of \$1,144,009.80 to the Successor Agency.

Please let me know if you have any questions.

Sincerely,

John W. Donlevy, Jr.
City Manager

Enc.

cc: Shelly Gunby
Dan Maguire
Iris P. Yang, Best Best & Krieger LLP

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DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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

August 30, 2012

Ms. Shelly Gunby, Director of Financial Management
City of Winters
318 First Street
Winters, CA 95894

Dear Ms. Gunby:

Subject: Housing Assets Transfer Form

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

HSC section 34176 (e) defines a housing asset. Assets transferred deemed not to be a housing asset shall be returned to the successor agency. Finance has completed its review of your Form, which may have included obtaining clarification for various items. Based on a sample of line items reviewed and the application of law, Finance is objecting to Exhibit C, Item 1, an Indenture of Trust for \$1,144,000. HSC section 34176 (e) (2) states funds that are encumbered by an enforceable obligation to build or acquire low and moderate income housing are considered to be housing assets. However, there are no contracts to build or acquire property. Therefore, this item is not a transferable housing asset.

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

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Dan Maguire, Housing and Economic Development Manager, City of Winters
Mr. Howard Newens, CPA, Auditor-Controller, Yolo County
California State Controller's Office

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

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



**OVERSIGHT BOARD FOR THE CITY OF WINTERS AS SUCCESSOR AGENCY TO THE
WINTERS COMMUNITY DEVELOPMENT AGENCY**

TO: Honorable Chairperson and Members of the Oversight Board of the
Successor Agency to the Dissolved Winters Community Development
Agency.

DATE: June 3, 2013

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly A. Gunby, Director of Financial Management 

SUBJECT: Consideration of Resolution OB-2013-05 of the City of Winters as
Successor Agency to the Winters Community Development Agency
Authorizing Transfer of Housing Notes Receivable to the Housing
Successor Agency (City of Winters).

RECOMMENDATION:

That the Oversight Board of the City of Winters as Successor Agency to the Winters Community Development Agency adopt the attached Resolution authorizing the transfer of the Housing Notes Receivable to the Housing Successor Agency.

BACKGROUND

AB 1X26 required all assets of the former Community Development Agency to be transferred to either the Successor Agency or the Housing Successor Agency on February 1, 2012.

Staff transferred assets per AB1X26 on February 1, 2012, and has received confirmation from the Department of Finance that the Notes from loans to low income individuals for the purchase of their homes as well as the one residential property owned by the former Community Development Agency were appropriately transferred.

On May 13, 2013 the State Controller's office completed the review of asset transfers by the Winters Community Development Agency to the City of Winters and issued a finding (Finding 2) that the Winters Community Development Agency transferred without approval of the Oversight Board (which wasn't in existence until April 2012) . Due to this issue, the State Controller has required that the City as Housing Successor Agency transfer the Notes back to the Successor Agency to transfer pursuant to Health and Safety Code section 34181(c) which according to the State Controller's office "clearly states that the Oversight Board, not the RDA is to direct the transfer of housing assets to the designed housing agency.

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The State Controller's office also commented "In discussions with DOF, they concurred that their lack of "objection" to housing asset transfers by the RDA on the HAT (Housing Asset Transfer Form) report does not mean they do not have to be approved by the Oversight Board."

In February this matter was brought to the Oversight Board, and the board validated the transfer of the housing assets by Resolution OB-2013-02 at that time. Apparently this was not sufficient to satisfy the State Controller's Office, therefore this resolution is being brought before the Oversight Board to satisfy the approval requirements of the State Controller's Office for the transfer of the housing assets to the Housing Successor Agency.

ATTACHMENTS:

Resolution OB-2013-05

Asset Transfer Review

DOF Approval of Housing Asset Form.

RESOLUTION NO. OB -2013-05

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO
THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF WINTERS,
APPROVING THE TRANSFER OF THE NOTES RECEIVABLES OF THE HOUSING
FUNCTION OF THE DISSOLVED COMMUNITY DEVELOPMENT AGENCY TO THE
HOUSING SUCCESSOR AGENCY**

WHEREAS, Health and Safety Code Section 34176 (a)1 authorizes the City that authorized the redevelopment agency to retain the housing assets and function previously performed by the redevelopment agency, and if a city elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations, and housing assets, as defined in subdivision (e), excluding any amounts on deposit in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency, shall be transferred to the City; and

WHEREAS; The City of Winters elected to retain the housing assets and functions previously performed by the Community Development Agency on January 17, 2012 with approval of Resolution 2012-03; and

WHEREAS, pursuant to Health and Safety Code Section 34176(e) 3, a housing asset includes any loan or grant receivable funded from the Low and Moderate Income Housing Fund from homebuyers, homeowners, nonprofit or for profit developers and any other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)); and

WHEREAS, the Notes Receivables in the amount of \$371,845.78 held by the dissolved Winters Community Development Agency are from homebuyers, homeowners and nonprofit developers that require occupancy by persons of low or moderate income, and therefore meets the definition of a housing asset; and

WHEREAS, the State Controller's Office in their communication issued May 13, 2013 has ordered that the Notes transferred by the Winters Community Development Agency to the City of Winters as the Housing Successor Agency must be transferred back to the Successor Agency for disposition under Health and Safety Code section 34177(e); and

WHEREAS, the Department of Finance approved the transfer of the Notes to the Housing Successor Agency on August 30, 2013

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF WINTERS DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. CEQA Compliance. The action of the Oversight Board to approve the Transfer of the Note Receivables to the Housing Successor Agency does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

Section 3. Approval Transfer of Housing Assets. The Oversight Board hereby approves of the transfer of the Notes Receivables in the amount of \$371,845.78 issued by the Winters Community Development Agency Low and Moderate Income Fund to the City of Winters as the Housing Successor Agency.

Section 4. Submittal to Department of Finance. The Oversight Board directs staff to submit this resolution to the Department of Finance.

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

Section 6. Certification. The Management Analyst Mary Jo Rodolfa of the City of Winters, acting on behalf of the Oversight Board as its Secretary, shall certify to the adoption of this Resolution.

Section 7. Effective Date. Pursuant to Health and Safety Code Section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

PASSED, APPROVED AND ADOPTED this 3rd day of June 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Oversight Board Chairperson

ATTEST:

Oversight Board Secretary



August 30, 2012

Ms. Shelly Gunby, Director of Financial Management
City of Winters
318 First Street
Winters, CA 95694

Dear Ms. Gunby:

Subject: Housing Assets Transfer Form

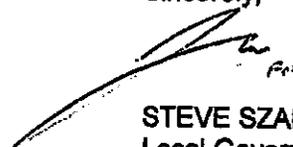
Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Winters submitted a Housing Assets Transfer Form (Form) to the California Department of Finance (Finance) on July 31, 2012 for the period February 1, 2012 through July 31, 2012.

HSC section 34176 (e) defines a housing asset. Assets transferred deemed not to be a housing asset shall be returned to the successor agency. Finance has completed its review of your Form, which may have included obtaining clarification for various items. Based on a sample of line items reviewed and the application of law, Finance is objecting to Exhibit C, Item 1, an Indenture of Trust for \$1,144,000. HSC section 34176 (e) (2) states funds that are encumbered by an enforceable obligation to build or acquire low and moderate income housing are considered to be housing assets. However, there are no contracts to build or acquire property. Therefore, this item is not a transferable housing asset.

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

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Dan Maguire, Housing and Economic Development Manager, City of Winters
Mr. Howard Newens, CPA, Auditor-Controller, Yolo County
California State Controller's Office



March 2, 2013

Ms. Shelly Gunby, Director of Financial Management
City of Winters
318 First Street
Winters, CA 95694

Dear Ms. Gunby:

Subject: Housing Assets Transfer Form

This letter supersedes California Department of Finance's (Finance) Housing Asset Transfer Form letter dated August 29, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Winters as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to Finance on July 31, 2012, for the period February 1, 2012 through July 31, 2012. Finance issued its determination related to those transferred assets on August 29, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items that was objected to by Finance. The Meet and Confer session was held on February 20, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed.

Exhibit C, Item 1 – Indenture of Trust for \$1,144,000. Finance continues to object to the transfer of this item. HSC section 34176 (e) (2) states funds that are encumbered by an enforceable obligation to build or acquire low and moderate income housing are considered to be housing assets. However, there were no contracts in place prior to June 27, 2011 to build or acquire property. Therefore, the encumbrance does not exist and the Item does not meet the definition of a housing asset per HSC section 34176 (e) (2).

Finance notes that pursuant to HSC section 34191.4 (c), successor agencies of former redevelopment agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued.

The second process, which can be utilized by the Agency, is set forth in HSC section 34176 (g), which authorizes the Agency to designate the use of and commit bond proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the bond covenants. The proceeds must have been derived from bonds that were issued for the purposes of affordable housing and issued prior to January 1, 2011. To initiate this process, the Agency is required to provide notice to the successor agency of any designations of use or commitments of funds that it wishes to make at least 20 days before the deadline for submission of the ROPS to the Oversight Board. These commitments and

Ms. Gunby
March 2, 2013
Page 2

designations will not be considered valid or binding until they are included in and approved and valid ROPS.

This is Finance's final determination related to the assets reported on your Form. Except for items disallowed as noted above, Finance is not objecting to the remaining items listed on your Form. Assets transferred deemed not to be a housing asset shall be returned to the successor agency.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Dan Maguire, Housing and Economic Development Manager, City of Winters
Mr. Howard Newens, Auditor-Controller, Yolo County
California State Controller's Office

**WINTERS COMMUNITY
DEVELOPMENT AGENCY**

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

May 2013



JOHN CHIANG
California State Controller

May 13, 2013

John W. Donlevy, Jr., City Manager
Winters Community Development/
Successor Agency
318 First Street
Winters, CA 95694

Dear Mr. Donlevy:

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

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

Our review found that the Winters Community Development Agency transferred \$17,896,328 in assets, which included unallowable transfers of assets totaling \$3,470,411, or 19.39%, that must be turned over to the Successor Agency.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/nh

Attachment

cc: Shelly Gunby, Director of Financial Management
City of Winters
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Steven Szalay, Local Government Consultant
California Department of Finance
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Mathew Rios, Auditor-in-Charge
Division of Audits, State Controller's Office
Kevin Kanemasu, Auditor
Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

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

Our review found that the Winters Community Development Agency (RDA) transferred \$17,896,328 in assets, which included unallowable transfers of assets totaling \$3,470,411 or 19.39%, that must be turned over to the Successor Agency.

Background

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

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

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

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

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

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

Objectives, Scope, and Methodology

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

We performed the following procedures:

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

Conclusion

Our review found that the Winters Community Development Agency transferred \$17,896,328 in assets, which included unallowable transfers of assets totaling \$3,470,411, or 19.39%, that must be turned over to the Successor Agency.

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

Views of Responsible Official

We issued a draft review report on March 15, 2012. John W. Donlevy, Jr., City Manager, responded by letter received April 4, 2013. The City's response is included in this final review report.

Restricted Use

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

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

May 13, 2013

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfer to the City of Winters

The Winters Community Development Agency (RDA) made an unallowable asset transfer of \$1,954,533, to the City of Winters. The asset transfer to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On March 16, 2011 the RDA transferred \$1,954,533 in capital assets to the City. To accomplish the transfer, on March 1, 2011 the City and the RDA entered into a purchase and sale agreement under Resolution 2011-16.

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

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

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

Order of the Controller

Based on H&S Code section 34167.5, the City of Winters is ordered to reverse the transfer of the above assets, as described in Schedule 1, in the amount of \$1,954,533 plus any interest earned, and return the assets to the Successor Agency.

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

City's Response

The City will transfer the six (6) properties identified on Schedule 1 to the Successor Agency.

SCO's Comment

The SCO agrees with the statement made by the City of Winters Community Development Successor Agency. The order remains the same.

**FINDING 2—
Unallowable asset
transfer to entity
assuming housing
functions**

The Winters Community Development Agency (RDA) made an unallowable asset transfer of \$1,515,878 described in Schedule 2, to the entity assuming housing functions. The asset transfers occurred during the period of January 1, 2011, through February 1, 2012, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

On January 31, 2012, the RDA transferred a total of \$1,515,878 in loan receivables to the entity assuming housing functions. Based on Health and Safety (H&S) Code section 34177(e), the Successor Agency, not the entity assuming the housing functions, is responsible for the disposition of assets and properties of the former RDA.

H&S Code section 34175(b) states, "All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012." Pursuant to H&S Code section 34175(b) the RDA was required to transfer all assets, including housing assets, to the Successor Agency.

H&S Code section 34177(d) states, "Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency . . . for allocation and distribution...[in accordance with] . . . Section 34188."

Pursuant to H&S Code section 34177(e) the "Successor Agency is to dispose of all former RDA assets . . . as directed by the oversight board . . ." Also, pursuant to H&S Code section 34177(g) the Successor Agency is to "[e]ffectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176." However, H&S Code section 34181(c) requires the Oversight Board to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to Section 34176.

Order of the Controller

Based on H&S Code section 34167.5, the entity assuming the housing functions is ordered to reverse the transfer of assets in the amount of \$1,515,878, and to turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e) and 34181(c).

City's Response

The City is in disagreement with part of finding 2. Attachment 2 contains a copy of the City's response.

SCO's Comment

The SCO is in agreement that the City will transfer the remaining bond proceeds in the amount of \$1,144,009.80 to the Successor Agency.

In addition, the SCO is in agreement with H&S Code section 34176, that the City may become the housing entity and take over the housing assets. However, pursuant to H&S Code section 34175(b), the assets of the former RDA were to be transferred to the Successor Agency first. Also, according to H&S Code section 34181(c), the Oversight Board is to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to H&S Code section 34176.

Although the Department of Finance (DOF) did not object to the transfer of the housing loans and receivables by the RDA in the amount of \$371,845.78 that was included on the Housing Asset Transfer (HAT) form, the transfer was not completed in accordance with H&S Code section 34181(c), which clearly states that the Oversight Board, not the RDA, is to direct the transfer of housing assets to the designed housing agency. The information that was required to be on the HAT report related solely to transfers made after February 1, 2012, by the Successor Agency with the approval of the Oversight Board. In discussions with DOF, they concurred that their lack of "objection" to housing asset transfers by the RDA on the HAT report does not mean they do not have to be approved by the Oversight Board.

Therefore, this part of the finding and order of the Controller remains the same.

**Schedule 1—
RDA Assets Transferred to the City of Winters
January 1, 2011, through January 31, 2012**

Unallowable Transfers to the City of Winters

<u>Capital Assets</u>	<u>Assessor Parcel Number</u>	<u>Value</u>
23 Main Street	003-204-006	\$ 173,691
East Grant Avenue	003-370-028, 003-370-029, 003-370-030	681,823
311 First Street	003-204-002	458,141
314 Railroad Avenue	003-204-006	351,399
318 Railroad Avenue	003-204-005	289,479
Total Unallowable Assets Transferred		<u>\$ 1,954,533</u>

**Schedule 2—
RDA Assets Transferred to the
Entity Assuming Housing Functions
January 1, 2011, through January 31, 2012**

Unallowable Transfers to the Entity Assuming Housing Functions:

Loans/Grants Receivables	<u>\$ 1,515,878</u>
Total Unallowable Assets Transferred	<u>\$ 1,515,878</u>

**Attachment—
City's Response to
Draft Review Report**



VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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

Re: SCO Draft report re Transfers by Winters Community Development Agency

Dear Mr. Mar:

I am writing in response to the SCO's Draft Asset Transfer Review Report, received by the City of Winters on March 22, 2013, to the Winters Successor Agency regarding asset transfers made by the former Winters Community Development Agency to the City of Winters after January 1, 2011. The following are the Successor Agency's comments to the Draft Report.

Summary (p. 1) and Conclusion (p. 2)

For the reasons more fully set forth in the response to Finding 2, we dispute the finding that there was an unallowable transfer of assets totaling \$3,470,411, or 19.39% that must be turned over the City of Winters Redevelopment Successor Agency. Specifically, we dispute Finding 2 as to the loans and receivables in the amount of \$371,845.78. Those assets were properly transferred to the City of Winters as the Housing Successor.

It is difficult to know exactly what assets were the Controller identified as having been transferred since Schedule 1 – RDA Assets Transferred to the Entity Assuming Housing Functions simply states an amount attributable to "Loans/Grants/Receivables" of \$1,515,878. There is no breakdown as to what loans, grants or receivables are at issue. The bulk of the asset transfer to the Housing Successor was bond proceeds of approximately \$1.14 million; bond proceeds are not loans, grants or receivables. Nevertheless, we are not challenging the finding that the remaining housing bond proceeds should be transferred to the Successor Agency.

Finding 1

The City will transfer the six (6) properties identified on Schedule 1 to the Successor Agency.

318 First Street
 Winters, CA 95694
 Phone: 530.995.4935
 Fax: 530.795.4935

COUNCIL MEMBERS
 Harold Anderson
 Wade Cowan
 Michael Martin

MAYOR
 Cecilia Aguiar-Curry
 MAYOR PRO TEM
 Woody Fridae

CITY CLERK
 Nanci Mills
 TREASURER
 Michael Sebastian

CITY MANAGER
 John W. Donlevy, Jr.

Finding 2

The City disputes a portion of Finding 2 and believes that the loans and receivables in the amount of \$371,845.78 should not be transferred to the Successor Agency. The SCO report cites Health and Safety Code sections 34175(b) and 34177(d) and (e) as authority for ordering the transfer of the "loan receivables" to the Successor Agency. It ignores the clear language of Health and Safety Code section 34176, which provides, in relevant part, as follows:

“(a)

(1) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations, and housing assets, as defined in subdivision (e), excluding any amounts on deposit in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county.

(2) The entity assuming the housing functions of the former redevelopment agency shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified in subdivision (e). The Department of Finance shall prescribe the format for the submission of the list. The list shall include assets transferred between February 1, 2012, and the date upon which the list is created. The department shall have up to 30 days from the date of receipt of the list to object to any of the assets or transfers of assets identified on the list. If the Department of Finance objects to assets on the list, the entity assuming the housing functions of the former redevelopment agency may request a meet and confer process within five business days of receiving the department objection. If the transferred asset is deemed not to be a housing asset as defined in subdivision (e), it shall be returned to the successor agency and the provision of Section 34178.8 may apply. If a housing asset has been previously pledged to pay for bonded indebtedness, the successor agency shall maintain control of the asset in order to pay for the bond debt.....

(c) Commencing on the operative date of this part, the entity that assumes the housing functions formerly performed by the redevelopment agency and receives the transferred housing assets may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)), including, but not limited to, Section 33418.

(d) Except as specifically provided in Section 34191.4, any funds transferred to the city, county, or city and county or designated entity pursuant to this section, together with any funds generated from housing assets, as defined in subdivision (e), shall be maintained in a separate Low and Moderate Income Housing Asset

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Fund which is hereby created in the accounts of the entity assuming the housing functions pursuant to this section. Funds in this account shall be used in accordance with applicable housing-related provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(e) For purposes of this part, "housing asset" includes all of the following:

(1) Any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low- and moderate-income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds.

(2) Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)) unless required in the bond covenants to be used for repayment purposes of the bond.

(3) Any loan or grant receivable, funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(4) Any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.

(5) A stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing.

(6)

(A) Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund pursuant to subparagraph (G) of paragraph (1) of subdivision (d) of Section 34171, which shall be used consistent with the affordable housing requirements in the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(B) Loan or deferral repayments shall not be made prior to the 2013-14 fiscal year. Beginning in the 2013-14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this paragraph and subdivision (b) of Section 34191.4 combined shall be equal to one-half of the

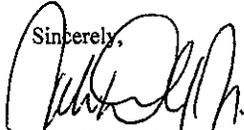
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increase between the amount distributed to taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year. Loan or deferral repayments made pursuant to this paragraph shall take priority over amounts to be repaid pursuant to subdivision (b) of Section 34191.4.

(f) If a development includes both low- and moderate-income housing that meets the definition of a housing asset under subdivision (e) and other types of property use, including, but not limited to, commercial use, governmental use, open space, and parks, the oversight board shall consider the overall value to the community as well as the benefit to taxing entities of keeping the entire development intact or dividing the title and control over the property between the housing successor and the successor agency or other public or private agencies. The disposition of those assets may be accomplished by a revenue-sharing arrangement as approved by the oversight board on behalf of the affected taxing entities...." (underlining added.)

In accordance with subsection (a)(2), above, the City, as the housing successor, completed the Housing Asset Transfer form issued by the state Department of Finance ("DOF"), and received approval of the transfer of all of the loans and receivables. A copy of DOF March 2, 2013 letter is enclosed. The outstanding loans and receivables that were transferred to the Housing Successor fall within the definition of "housing asset," above, and are properly being held by the City as the Housing Successor. The loans were all made to first-time homebuyers or to assist with the construction or rehabilitation of affordable housing. Therefore, the City will not transfer these housing assets to the Successor Agency. It will transfer the remaining housing bond proceeds in the amount of \$1,144,009.80 to the Successor Agency.

Please let me know if you have any questions.

Sincerely,

John W. Donlevy, Jr.
City Manager

Enc.

cc: Shelly Gunby
Dan Maguire
Iris P. Yang, Best Best & Krieger LLP

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August 30, 2012

Ms. Shelly Gunby, Director of Financial Management
City of Winters
318 First Street
Winters, CA 95694

Dear Ms. Gunby:

Subject: Housing Assets Transfer Form

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

HSC section 34176 (e) defines a housing asset. Assets transferred deemed not to be a housing asset shall be returned to the successor agency. Finance has completed its review of your Form, which may have included obtaining clarification for various items. Based on a sample of line items reviewed and the application of law, Finance is objecting to Exhibit C, item 1, an Indenture of Trust for \$1,144,000. HSC section 34176 (e) (2) states funds that are encumbered by an enforceable obligation to build or acquire low and moderate income housing are considered to be housing assets. However, there are no contracts to build or acquire property. Therefore, this item is not a transferable housing asset.

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

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Dan Maguire, Housing and Economic Development Manager, City of Winters
Mr. Howard Newens, CPA, Auditor-Controller, Yolo County
California State Controller's Office

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

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



**OVERSIGHT BOARD FOR THE CITY OF WINTERS AS SUCCESSOR AGENCY TO THE
WINTERS COMMUNITY DEVELOPMENT AGENCY**

TO: Honorable Chairperson and Members of the Oversight Board of the
Successor Agency to the Dissolved Winters Community Development
Agency.

DATE: June 3, 2013

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly A. Gunby, Director of Financial Management *Shelly*

SUBJECT: Status of ROPS 13-14A

RECOMMENDATION:

That the Oversight Board to the City of Winters as Successor Agency to the Winters Community Development Agency receive the attached Determination Letter from the Department of Finance for the ROPS 13-14A (July 1-December 31, 2013).

BACKGROUND

On March 3, 2013 the City of Winters as Successor Agency to the Dissolved Winters Community Development Agency submitted the Oversight Board approved 13-14A ROPS to the Department of Finance as required by AB1X26 and SB1484.

On April 13, 2013 the Department of Finance issued a Determination Letter disallowing the Low Mod Income Housing Fund in the amount of \$11,928,487.

The Department of Finance also reclassified the rental of the meeting room and janitorial service costs at 305 First Street to administrative costs and not a separate enforceable obligation. Due to the low amount of tax increment being received by the successor agency, the City of Winters is not expected to receive the administrative fee of \$250,000 in the 12-13 or 13-14 fiscal years, and has elected to discontinue the rental of the property at 305 First Street effective June 30, 2013. The property owner has been notified and the groups using the property have been notified that they must vacate by June 30, 2013.

All other items included on the 13-14A ROPS were approved.

ATTACHMENTS:

April 13, 2013 Department of Finance Determination Letter.

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April 13, 2013

Ms. Shelly Gunby, Director of Financial Management
City of Winters
318 First St.
Winters, CA 95694

Dear Ms. Gunby:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Winters Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14A) to the California Department of Finance (Finance) on February 15, 2013 for the period of July through December 2013. Finance has completed its review of your ROPS 13-14A, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on a sample of line items reviewed and application of the law, the following do not qualify as enforceable obligations:

- Items No. 13 and 14 – Although enforceable, janitorial services and meeting room rental for 305 First Street totaling \$11,660 (\$600 and \$11,060, respectively) are considered general administrative costs and have been reclassified. Although this reclassification increased administrative costs to \$135,660, the administrative cost allowance has not been exceeded.

While the administrative costs claimed are within the fiscal year administrative cap pursuant to HSC section 34171 (d), Finance notes the oversight board has approved an amount that appears excessive, given the number and nature of the other obligations listed in the ROPS. HSC section 34179 (i) requires the oversight board to exercise a fiduciary duty to the taxing entities. Therefore, Finance encourages the oversight board to apply adequate "oversight" when evaluating the administrative resources required to successfully wind-down the Agency.

- Item No. 17 – Low Mod Income Housing Fund in the amount of \$11,928,487. It is our understanding there are no current obligations that are required to be paid in regards to this item within the period. HSC section 34171 (d) defines an enforceable obligation, therefore any item that qualifies as an enforceable obligation may be placed on a future ROPS for payment subject to review by Finance.

The Agency stated this amount is for the continuation of 20 percent set aside. The requirement to set aside 20 percent of redevelopment agency tax increment for low and moderate income housing purposes ended with the passing of the redevelopment

dissolution legislation. HSC section 34177 (d) requires that all unencumbered balances in the Low and Moderate Income Housing Fund be remitted to the county auditor controller for distribution to the taxing entities. Therefore, this item is not eligible to be funded on the ROPS.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14A. This determination applies only to items where funding was requested for the six month period. If you disagree with the determination with respect to any items on your ROPS 13-14A, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's maximum approved RPTTF distribution for the reporting period is \$1,027,579 as summarized below:

Approved RPTTF Distribution Amount	
For the period of July through December 2013	
Total RPTTF funding requested for obligations	\$ 12,832,066
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 13*	600
Item 14*	11,060
Item 17	11,928,487
Total approved RPTTF for enforceable obligations	<u>\$ 891,919</u>
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	<u>135,660</u>
Minus: ROPS II prior period adjustment	<u>-</u>
Total RPTTF approved for distribution:	\$ 1,027,579

*Reclassified as administrative cost

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 period. The amount of RPTTF approved in the above table includes the prior period adjustment that was self-reported by the Agency. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the above table includes only the prior period adjustment that was self-reported by the Agency.

Please refer to the ROPS 13-14A schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14A Forms by Successor Agency/>.

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2013. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not

Ms. Shelly Gunby
April 13, 2013
Page 3

denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Howard Newens, CPA, Auditor-Controller, Yolo County
California State Controller's Office



**OVERSIGHT BOARD FOR THE CITY OF WINTERS AS SUCCESSOR AGENCY TO THE
WINTERS COMMUNITY DEVELOPMENT AGENCY**

TO: Honorable Chairperson and Members of the Oversight Board of the
Successor Agency to the Dissolved Winters Community Development
Agency.

DATE: June 3, 2013

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly A. Gunby, Director of Financial Management *Shelly*

SUBJECT: Status of OFA (Other Funds Accounts) Due Diligence Report

RECOMMENDATION:

That the Oversight Board to the City of Winters as Successor Agency to the Winters Community Development Agency receive the attached Other Funds and Accounts (OFA) Due Diligence Review (DDR).

BACKGROUND

On December 13, 2012 the City of Winters as Successor Agency to the Winters Community Development Agency submitted the Other Funds and Accounts Due Diligence Report to the Department of Finance as required by SB1484.

On May 15, 2013 the Department of Finance issued the attached Determination Letter regarding the Other Funds and Accounts Due Diligence Report. The Report in essence orders the Successor Agency to forward \$376,674 to the Yolo County Auditor Controller for distribution to the other taxing agencies. These funds are considered to be inappropriately held by the Successor Agency. Staff submitted an estimation of the cash flow for the Successor Agency to the Department of Finance during their review, which showed that the Successor Agency had no extra funds on hand, and would have a zero balance on 12-31-13. This was not taken into account by the Department of Finance when they issued their determination. The Successor Agency does not have the funds available to pay the amount required by the Department of Finance, and if the Department of Finance continues with their demand, the Successor Agency will default on the bonds issued by the Winters Community Development Agency due to lack of funding.

Staff has requested a meeting, known as a Meet and Confer, with the Department of Finance and it is scheduled on May 28, 2013. Staff will explain the consequences of the demand of funds by the Department of Finance on the ability of the Successor Agency to meet the financial obligations

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as set forth in ROPS submitted to date.

ATTACHMENTS:

May 15, 2013 Department of Finance Determination Letter.



May 15, 2013

Ms. Shelly Gunby, Financial Management Director
City of Winters
318 First Street
Winters, CA 95694

Dear Ms. Gunby:

Subject: Other Funds and Accounts Due Diligence Review

The City of Winters Successor Agency (Agency) submitted an Oversight Board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on March 4, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Assets transferred to the City of Winters (City) in the period between January and June 2011 totaling \$1.9 million. Agency transferred five properties to the City and the City transferred \$1.9 million to the Agency, which is essentially a wash. However, HSC section 34179.5 (c) (2) only allows transfers of assets required by an enforceable obligation. Enforceable obligations are defined in HSC section 34179.5 (b) (2). Therefore, this transfer is not allowed. These assets must be returned to the Agency to be included in the Long Range Property Management Plan. Since these are non-liquid assets, Finance made no adjustments to the available balance to the affected taxing entities.
- Balances requested to be retained totaling \$1.4 million for fiscal year 2012-13 obligations should be adjusted by \$672,954. Specifically:
 - The Agency's request to retain \$897,853 for July through December 2012 Recognized Obligation Payment Schedule (ROPS II) obligations is partially denied. Although the Agency wishes to retain \$897,853, the County Auditor-Controller (CAC) only distributed \$744,621 on June 1, 2012. The Agency is limited to retaining the \$744,621 from the CAC. As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$153,232.

To the extent these constitute enforceable obligations, the Agency should request funding for these in a future ROPS.

- o The Agency requested to retain \$519,722 of January through June 2013 ROPS III expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Since the CAC distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$519,722.

If you disagree with Finance's adjusted amount of OFA balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's OFA balance available for distribution to the affected taxing entities is \$376,674 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (296,280)
Finance Adjustments	
Add:	
Request to retain balance not supported:	672,954
Total OFA available to be distributed:	\$ 376,674

Absent a Meet and Confer request, HSC section 34179.6 (f) requires successor agencies to transmit to the CAC the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient. Upon submission of payment, please provide proof of payment to Finance within five business days.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable

Ms. Shelly Gunby
May 15, 2013
Page 3

obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter do not in any way eliminate the Controller's authority.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Howard Newens, CPA, Auditor-Controller, Yolo County
California State Controller's Office



**OVERSIGHT BOARD FOR THE CITY OF WINTERS AS SUCCESSOR AGENCY TO THE
WINTERS COMMUNITY DEVELOPMENT AGENCY**

TO: Honorable Chairperson and Members of the Oversight Board of the
Successor Agency to the Dissolved Winters Community Development
Agency.

DATE: June 3, 2013

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Shelly A. Gunby, Director of Financial Management *Shelly*

SUBJECT: Status of 5/28/13 Meet and Confer with Department of Finance regarding
the Other Funds and Accounts Due Diligence Review.

RECOMMENDATION:

That the Oversight Board to the City of Winters as Successor Agency to the Winters Community Development receive a report on the Status of the Other Funds Accounts (OFA) Due Diligence Report (DDR)

BACKGROUND

One May 28, 2013 Staff, along with legal counsel meet with representatives of the Department of Finance (DOF) on the demand for \$376,674 from the Successor Agency. DOF representatives agreed with the Successor Agency that the amount demanded was incorrect, and will be issuing a determination that no funds will be required to be submitted to the Yolo County Auditor Controller from the City of Winters as Successor Agency to the Winters Community Development Agency. The representatives indicated that the Successor Agency should have a revised finding from DOF no later than June 15, 2013, and hopefully will have the letter much earlier than that date.

ATTACHMENTS: