

RESOLUTION NO. OB 2012- 11

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE DISSOLVED REDEVELOPMENT AGENCY (RDA) OF THE CITY OF EAST PALO ALTO APPROVING THE DUE DILIGENCE REVIEW OF THE LOW AND MODERATE INCOME HOUSING FUND BY A LICENSED ACCOUNTANT PURSUANT TO GOVERNMENT CODE SECTIONS 34179.5 AND 34179.6(C) AND DETERMINING THE AMOUNT AVAILABLE FOR DISBURSEMENT TO TAXING ENTITIES.

WHEREAS, on December 29, 2011, the California Supreme Court delivered its decision in *California Redevelopment Association v. Matosantos*, finding ABx1 26 (the "Dissolution Act") largely constitutional; and

WHEREAS, under the Dissolution Act and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency of the City of East Palo Alto (the "Dissolved RDA"), were dissolved on February 1, 2012; and

WHEREAS, on January 10, 2012, the City Council (the "City Council") of the City of East Palo Alto (the "City") adopted resolution 4226 accepting for the City the role of Successor Agency to the Dissolved RDA (the "Successor Agency"); and

WHEREAS, under the Dissolution Act (as amended by AB 1484), the City, pursuant to, and as set forth in SEC.17. Section 34179.5. (a) in furtherance of subdivision (d) of Section 34177, shall employ a licensed accountant, approved by the county auditor-controller to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities; and

WHEREAS, the City of East Palo Alto hired the County auditor-controller approved firm of Vavrinek, Trine, Day, and Co., Certified Public Accountants & Consultants (VTD) to perform the due diligence review services; and

WHEREAS, the Successor Agency of the City of East Palo Alto, pursuant to AB 1484, SEC.18. Section 34179.6 (a), on October 1, 2012, provided to the oversight board, the county auditor-controller, the State Controller, and the Department of Finance, the results of the review conducted pursuant to section 34179.5 for the Low and Moderate Income Housing Fund, and,

WHEREAS, AB 1484, SEC.18. Section 34179.6 (b), requires that upon receipt of the review, the oversight board shall convene a public session to take place at least five business days before the oversight board holds the approval vote specified in subdivision (c). The oversight board also shall consider any opinions offered by the county auditor-controller on the review results submitted by the successor agencies; and,

WHEREAS, the oversight board, complying with all requirements of, and pursuant to Section 34179.6 (b) held a public comment special meeting on October 4, 2012 to allow public comment; and

WHEREAS, the oversight board, at its October 11, 2012 special meeting, reviewed and approved the due diligence review determination of \$3,012,815 as the amount of cash and cash equivalents that are available for disbursement to taxing entities as determined according to the method provided in Section 34179.5 for the Low and Moderate Income Housing Fund; and

WHEREAS, the review and approval occurred in public sessions after receiving from the successor agency all materials the oversight board deemed necessary to assist in its review and approval of the determination; and,

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board of the Successor Agency for the dissolved RDA hereby directs staff that by October 15, 2012, for the Low and Moderate Income Housing Fund, it shall transmit to the department and the county auditor-controller this resolution, the determination of \$3,012,815 as the amount of cash and cash equivalents that are available for disbursement to taxing entities, and a copy of the final approved version of the Due Diligence Review (Attachment "2"); and

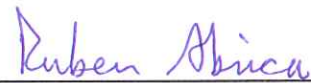
BE IT FURTHER RESOLVED that the Oversight Board hereby authorizes the Successor Agency to retain assets or funds, including any current balances needed to satisfy obligations placed on the FY 2012-13 ROPS's, under Health and Safety Code Section 34179.5(c)(5)(E) in the amount of Sixty Thousand Dollars (\$60,000) from the Low and Moderate Income Housing Asset Fund for the purpose of funding the Bay Road Housing Operating Subsidy Loan.

ADOPTED on October 11, 2012 by the Members of the Oversight Board of the Successor Agency for the Redevelopment Agency of the City of East Palo Alto with the following vote, to wit:

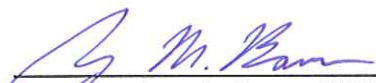
AYES:
NOES:
ABSENT:
ABSTAIN:



Oversight Board Secretary



Chair



Approved as to form, OSB Counsel

ATTACHMENT 2
INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES
FOR THE LOW AND MODERATE INCOME HOUSING FUND

**CITY OF EAST PALO ALTO
REDEVELOPMENT SUCCESSOR AGENCY**

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

JUNE 30, 2012



Vavrinek, Trine, Day & Co., LLP
Certified Public Accountants & Consultants

VALUE THE DIFFERENCE

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Oversight Board of the City of
East Palo Alto Successor Agency

We have performed the procedures enumerated in attachment 1, which were agreed to by the City of East Palo Alto (the City) Successor Agency (Successor Agency) and the Department of Finance, solely to assist you with respect to filing requirements of the Health and Safety Code 34179.5 regarding the Low and Moderate Income Housing Fund unobligated balances. The Successor Agency is responsible for the accounting records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings are described in Attachment 1 of this report which were agreed to by the Successor Agency and the California Department of Finance.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion on the procedures listed in Attachment 1. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the City of East Palo Alto, the California State Controller's Office, the California Department of Finance, County of San Mateo and the Successor Agency Oversight Board and is not intended to be and should not be used by anyone other than those specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Vavrinek, Trine, Day & Co. LLP

Palo Alto, California
September 28, 2012

Our procedures and results are summarized below

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

Finding – All assets of the former redevelopment agency Low and Moderate Income Housing Fund were transferred to the City of East Palo Alto Housing Successor Low and Moderate Income Housing Asset Fund. There were no assets transferred to the Successor Agency. We agreed the amounts transferred to the Housing Successor from the former Low and Moderate Income Housing Fund to the January 31, 2012 accounting records as follows:

<i>Cash</i>	<i>\$3,559,809</i>
<i>Interest Receivable</i>	<i>172,842</i>
<i>Loan Receivable - Nairobi Housing Associates</i>	<i>5,500,000</i>
<i>Loan Receivable - Nugent Square Partners</i>	<i>1,100,000</i>
<i>Other Loan Receivables</i>	<i>390,612</i>
<i>Land</i>	<i>2,603,736</i>
<i>Other Receivables - Grants</i>	<i>15,000</i>
<i>Total</i>	<u><i>\$13,341,999</i></u>

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

Finding – The Successor Agency asserts that the State Controller's Office has not issued its report regarding the transfers. There were no transfers prior to the close of the business day as of January 31, 2012. The assets transferred on February 1 as

noted in the findings of procedure 1 above were retained for the City's Housing activities and were not transferred to the Successor Agency. The State Department of Finance (DOF) notified the City in its letter dated August 31, 2012 that it objected to the transfer related to the land asset and was not objecting to the other assets listed on procedure 1 above.. The Successor Agency has since requested a Meet and Confer with the DOF on the questioned land transfer.

We noted that City Council of the City of East Palo Alto elected to become the Housing Successor and to retain the housing assets and functions previously performed by the former Redevelopment Agency of the City of East Palo Alto as supported by City resolution No 4227. The City believes pursuant to Assembly Bills ABx1 26 and AB 1484 that these assets are restricted for low and moderate housing activities and should not be remitted back to the taxing authorities.

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

Finding – The City asserts the State Controller's Office has not issued its report regarding transfers. We noted that no transfers were made from the former redevelopment agency or the Successor Agency to any other public agency or to private parties for the period from January 1, 2011 through January 31, 2012 and from February 1 through June 30, 2012.

4. Perform the following procedures:

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

Finding – This procedure is not applicable to the Low and Moderate Income Housing Fund.

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

Finding – We obtained a listing of the Successor Agency assets of the Low and Moderate Income Housing Fund as of June 30, 2012 and have presented it as Attachment 2 of this report. We agreed the reported amounts to the accounting records of the Successor Agency.

6. Obtain from the Successor Agency a listing of asset balances held on June 30, 2012 that are restricted for the following purposes:
- A. Unspent bond proceeds:
 - i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures, amounts set aside for debt service payments, etc.)
 - ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).

-
- iii. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.

Finding – No assets of the Successor Agency Low and Moderate Income Housing Fund with restrictions were noted.

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

- i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).

Finding – No assets of the Successor Agency Low and Moderate Income Housing Fund with restrictions were noted.

- ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).

Finding – No assets of the Successor Agency Low and Moderate Income Housing Fund with restrictions were noted.

- iii. Obtain from the Successor Agency a copy of the grant agreement that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.

Finding – No assets of the Successor Agency Low and Moderate Income Housing Fund with restrictions were noted.

C. Other assets considered to be legally restricted:

- i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).

Finding – No other assets of the Low and Moderate Income Housing Fund with restrictions were noted.

- ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).

Finding – No other assets of the Low and Moderate Income Housing Fund with restrictions were noted.

- iii. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by Successor the Agency as restricted.

Finding – No other assets of the Low and Moderate Income Housing Fund with restrictions were noted.

- D. Attach the above mentioned Successor Agency prepared schedule(s) as an exhibit to the AUP report. For each restriction identified on these schedules, indicate in the

report the period of time for which the restrictions are in effect. If the restrictions are in effect until the related assets are expended for their intended purpose, this should be indicated in the report.

Finding – No assets of the Low and Moderate Income Housing Fund with restrictions were noted.

7. Perform the following procedures:

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

Finding – As noted in procedure 2, there were no assets transferred to the Successor Agency and instead all assets of the former redevelopment agency Low and Moderate Income Housing Fund were transferred to the Housing Successor.

8. Perform the following procedures:

- A. If the Successor Agency believes that asset balances need to be retained to satisfy enforceable obligations, obtain from the Successor Agency an itemized schedule of asset balances (resources) as of June 30, 2012 that are dedicated or restricted for the funding of enforceable obligations and perform the following procedures. The schedule should identify the amount dedicated or restricted, the nature of the dedication or restriction, the specific enforceable obligation to which the dedication or restriction relates, and the language in the legal document that is associated with the enforceable obligation that specifies the dedication of existing asset balances toward payment of that obligation.
 - i. Compare all information on the schedule to the legal documents that form the basis for the dedication or restriction of the resource balance in question.
 - ii. Compare all current balances to the amounts reported in the accounting records of the Successor Agency or to an alternative computation.
 - iii. Compare the specified enforceable obligations to those that were included in the final Recognized Obligation Payment Schedule approved by the California Department of Finance.
 - iv. Attach as an exhibit to the report the listing obtained from the Successor Agency. Identify in the report any listed balances for which the Successor Agency was

unable to provide appropriate restricting language in the legal document associated with the enforceable obligation.

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

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

Finding – The Successor Agency enforceable obligation had no assets to be retained, the source of which was Low and Moderate Income Housing Fund. Instead, all assets of the former Redevelopment Agency’s Low and Moderate Income Housing Fund were transferred to the Housing Successor with the exception to the unencumbered cash.

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

Finding - The Successor Agency believes that \$60,000 of its cash balances are needed to be retained to satisfy an enforceable obligation related to a developer subsidy obligation for the period beginning July 1, 2012 through December 31, 2012. The California Department of Finance approved the July 1 to December 31, 2012 ROPS which included this amount as an obligation to be funded with Housing Successor retained cash. For future years, the Successor Agency anticipates that future annual subsidy obligations will be covered by future Redevelopment Property Trust Tax Funds.

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

Finding – A schedule detailing the computation of the Balance Available for Allocation to Affected Taxing Entities is included in Attachment 2.

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

Finding - A representation letter was obtained from Successor Agency management acknowledging their responsibility for the information provided and presented in this report or in any attachments to the report. Included in the representations is an acknowledgment that management is not aware of any transfers (as defined by Section 34179.5) from either the former redevelopment agency or the Successor Agency to other parties for the period from January 1, 2011 through June 30, 2012 that have not been properly identified in the AUP report and its related exhibits.

**CITY OF EAST PALO ALTO
SUMMARY OF BALANCES AVAILABLE FOR ALLOCATION
AS OF JUNE 30, 2012**

SUMMARY OF BALANCES AVAILABLE FOR ALLOCATION TO AFFECTED TAXING ENTITIES:

Total amount of assets held by the successor agency as of June 30, 2012 (procedure 5)	\$3,072,815
Add the amount of any assets transferred to the city or other parties for which an enforceable obligation with a third party requiring such transfer and obligating the use of the transferred assets did not exist (procedures 2 and 3)	-
Less assets legally restricted for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments (procedure 6)	-
Less assets that are not cash or cash equivalents (e.g., physical assets) - (procedure 7)	-
Less balances that are legally restricted for the funding of an enforceable obligation (net of projected annual revenues available to fund those obligations) - (procedure 8)	-
Less balances needed to satisfy ROPS for the 2012-13 fiscal year (procedure 9)	(60,000)
Less the amount of payments made on July 12, 2012 to the County Auditor-Controller as directed by the California Department of Finance	-
Amount to be remitted to county for disbursement to taxing entities	<u>\$3,012,815</u>