



MEET AND CONFER REQUEST FORM

Instructions: Please fill out this form in its entirety to initiate a Meet and Confer session. Additional supporting documents may be included with the submittal of this form—as justification for the disputed item(s). Upon completion, email a PDF version of this document (including any attachments) to:

Redevelopment_Administration@dof.ca.gov

The subject line should state “[Agency Name] Request to Meet and Confer”. Upon receipt and determination that the request is valid and complete, the Department of Finance (Finance) will contact the requesting agency within ten business days to schedule a date and time for the Meet and Confer session.

To be valid, all Meet and Confer requests must be specifically related to a determination made by Finance and submitted within the required statutory time frame. The requirements are as follows:

- Housing Asset Transfer Meet and Confer requests must be made within five business days of the date of Finance’s determination letter per HSC Section 34176 (a) (2).
• Due Diligence Review Meet and Confer requests must be made within five business days of the date of Finance’s determination letter, and no later than November 16, 2012 for the Low and Moderate Income Housing Fund due diligence review per HSC Section 34179.6 (e).
• Recognized Obligation Payment Schedule (ROPS) Meet and Confer requests must be made within five business days of the date of Finance’s determination letter per HSC Section 34177 (m).

Agencies should become familiar with the Meet and Confer Guidelines located on Finance’s website. Failure to follow these guidelines could result in termination of the Meet and Confer session. Questions related to the Meet and Confer process should be directed to Finance’s Dispute Resolution Coordinator at (916) 445-1546 or by email to Redevelopment_Administration@dof.ca.gov.

AGENCY (SELECT ONE):

- [X] Successor Agency [] Housing Entity

AGENCY NAME: SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY

TYPE OF MEET AND CONFER REQUESTED (SELECT ONE):

- [] Housing Assets Transfers [X] Due Diligence Reviews [] ROPS Period _____

DATE OF FINANCE’S DETERMINATION LETTER: November 9, 2012.

REQUESTED FORMAT OF MEET AND CONFER SESSION (SELECT ONE):

- [X] Meeting at Finance [] Conference Call

DETAIL OF REQUEST

A. Summary of Disputed Issue(s) *(Must be specific.)*

We are requesting an expedited review meeting with DOF because without prompt direction from the Department there will be insufficient funds available to make the payments on ROPS III, which impacts the ability to make bond payments. Meet and Confer Guidelines suggest identifying the "Form Name" and "Item Number" of dispute, however there are several items of dispute that are interrelated to the findings of DOF in its DDR Determination Letter, dated November 9, 2012, which is attached.

1) The first issue related to this dispute is in regards to the SERAF payment of \$426,210 made by the Successor Agency to the Housing Authority on January 31, 2012. AB X1 26 defines the repayment of the loan as an enforceable obligation. The amount (\$426,210) was originally a loan from the South Tahoe Redevelopment Agency's LMIHF (Housing 20% Set-Aside funds) to the RDA so that the Agency could make its SERAF payment as required by state law (2010/2011). AB x1 26 required any funds borrowed by the RDA from the LMIHF to be repaid upon passage (and being subsequently upheld by the CA Supreme Court). Those funds were repaid as required by law, which were paid to the Housing Authority (action approved by the RDA on January 31, 2012). The payment was made pursuant to the ROPS I (approved by the Successor Agency, Oversight Board and DOF) in accordance with the passage of AB X1 26, which was prior to the passage of AB 1484.

When the County Auditor Controller ("CAC") performed the DDR, he disagreed with the repayment stating the Successor Agency should have followed AB 1484 (which was not in existence at the time of the repayment) and thus, in his DDR he stated those funds should be made available for distribution to the taxing entities. The Successor Agency and Oversight Board disagreed with the CAC. The DOF's review of the DDR letter dated November 9, 2012 stated the \$426,210 should be available for distribution to the taxing entities for a different reason and cited HSC section 34163 (b) "prohibiting and agency from entering into contracts... after June 28, 2011." That citation is unrelated to the \$426,210 funds issue because the Successor Agency has not entered into any contracts after June 28, 2011; we are not familiar with what contract the DOF was referring to in its determination letter. The repayment of the SERAF loan was made in accordance with applicable laws (AB X1 26) which defined the SERAF loan as an enforceable obligation to be repaid expeditiously after the law was enacted (and upheld by the California Supreme Court), which the Successor Agency did. The loan repayment from the Successor Agency was paid to the Housing Authority (in accordance with the law the loan was to be repaid to be used for housing related activities), which is exactly what the funds are being used for in the Housing Authority.

2) The second issue to be considered, related to the DOF's November 9, 2012 DDR review letter, which indicates, "the Agency's LMIHF balance available for allocation to the affected entities is \$1,911,510," which includes the \$426,210 mentioned in #1 (above). However, regardless of the amount (either \$1,485,309 or \$1,911,510 pending the resolution of this Meet and Confer) there are insufficient funds available in the RPTTF to make the ROPS payments, which negatively impacts the Bond holders (see CAC 10/31/12 Notice of Insufficient Funds/attached). In accordance with HSC section 34183, when insufficient funds are available for the SA to meet its approved obligation, payments to taxing entities are immediately suspended. The Successor Agency requests (and the CAC also suggested the same) that the funds identified in the DDR be directed to payments on the ROPs.

There are insufficient funds available to make the payments on the ROPs for several reasons including a decline in property values reducing the Tax Increment available, but primarily due to the CAC's decision to consider an approximate \$1.5M debt of the Successor Agency a "roll correction," rather than a debt or obligation of the Successor Agency. Clearly, without objection, it is well established under AB X1 26 and AB 1484 that any debt or obligation of the Successor Agency must be requested for payment, discussed in public setting by the Successor Agency, and if approved forwarded to the Oversight Board for public discussion and potential approval and then to the DOF for same - only then, can a debt or obligation be paid. That process is well described and well established. However, the CAC is bypassing the process by simply referring to a \$1.5M debt or obligation of the Successor Agency as a "roll correction" of property tax increment, thus creating a significant shortfall in the RPTTF, avoiding the public process and the requirement of obtaining approval from all entities. Given the order of priority that debts are paid, the \$1.5M would be placed below the bond holders; since there is already insufficient funds available to make the payments, the CAC is well aware that the debt (the estimated \$1.5M) may not be paid for several years if they had to follow the same process as all other debts and obligations.

The \$1.5M debt: The debt /obligation arises from the Teeter plan, which requires the County to forward to the (former) Redevelopment Agency the amount of property taxes due to the Agency (whether or not the property owner paid the full amount). The property tax debt becomes an obligation of the County to collect, not any of the taxing entities. This \$1.5M debt occurred because in prior tax years (between 2009-2012) the County forwarded the amount owed to the Redevelopment Agency (between 2009-2012). However, several property owners appealed the amount owed because their development project stalled (and remains stalled) reducing the value of the property. The property owners prevailed in their appeal resulted in their debt to the County being reduced. The County, under Teeter Plan, had already advanced those funds to the now dissolved RDA during each of the years in question. Following the appeal, the County naturally wants the property tax funds advanced to the RDA returned. The Successor Agency does not dispute a debt has occurred (although the Successor Agency has not been provided any documentation of the appeal, the Agency takes the CAC at his word on the debt having occurred). However, now that the RDA is dissolved, the only method of collecting a debt or obligation owed by the former RDA is to follow the process. Provide evidence of the debt, provide sufficient documentation to support the collectin of this debt and request approval of the Successor Agency and place it on the ROPS to follow the order for repayment as all other debts and obligations. However, by defining the debt as a "roll correction" and not a debt, the CAC can avoid the process and according to the CAC the funds owed by the RDA can be withheld from the SA. The SA is a legally separate and distinct entity from the RDA therefore, any debts owed by the RDA to be collected by the Successor Agency must follow the same process, but that would place the \$1.5M debt below the bond holders meaning the CAC/County would not be able to collect the funds for some time given the insufficiency.

The Successor Agency disputes this unilateral decision by the CAC, which has impacted the Successor Agency's ability to meet its debts as approved by the SA, OB and DOF. This action also impacts the ability of the SA to meet its debts approved and upheld by the CA Supreme Court in upholding AB X 1 26, which stated that the contracts between the RDA and its bond holders were to not be interfered. The CAC does have the right to make roll corrections for years in which the Successor Agency exists, the SA does not dispute that. The CAC will retain that right in years going forward, the SA does not disput those rights. The CAC does not have legal authority to redefine a debt of the SA as a roll correction for the convenience of avoiding the process as outlined by AB 1484 (and previously by AB X 1 26).

This issue of whether the \$1.5M successful appeal of back taxes is a debt or obligation of the RDA/SA is as simple as in how it is defined. No one, no entity, agency, or debtor can collect funds from the Successor Agency unless it is for a debt or obligatin as approved by law. If it is not a debt or obligation, it cannot be collected. If it is a debt, or an obligation of the Agency, then the process as defined by the law must be followed. The revenue and taxation code upon which the CAC is relying on to define the property owners' appeal of their back taxes (their debt) as a "roll correction," is convenient and results in the County's capture of \$1.5M from the Successor Agency, but also contributes significantly to the reason there are insufficient funds for the Agency to pay its obligations.

The Successor Agency disputes the CAC's decision to redefine a debt owed by the RDA as a normal year tax roll correction reducing the funds available to the Successor Agency.

3) The third issue, is that in addition to the above disputed method of defining the debt, because there are insufficient funds available to make the payments listed on the approved ROPS, which includes Bond holders. The Successor Agency disputes the DOF's direction to distribute the amount of LMIHF's to the taxing entities (either the \$1,485,309 or \$1,911,510). Those funds should be redirected to make the approved ROPS payments.

4) The fourth issue to be considered in our Meet and Confer meeting with the DOF is related to the CAC conducting the DDRs because the CAC (Mr. Joe Harn) has indicated he has unilaterally decided to withhold funds from the Successor Agency's RPTTF to pay for his costs to perform the DDRs, which is in addition to the Administrative costs the CAC is entitled to under the law. The CAC has estimated his costs to conduct all of the DDRs to be approximately \$20,000. First, the CAC declined to approve the Successor Agency's use of an outside auditor that was much less expensive and could have conducted the DDRs more expeditiously; the CAC declined to provide any information as to the rationale for his decision. After declining to approve an outside auditor, and after conducting the Housing DDR, the CAC informed the Successor Agency he would be withholding those costs from the RPTTF account. Our objection to this unilateral action is based on serveral reasons. First, if the CAC has determined he has costs owed to his agency by the Successor Agency(SA), that would be a debt or obligation owed by the Successor Ageny, which would be required to be submitted to the SA in accordance with the procedures for payments of debts and obligations; just as described in #2 (above), the CAC must follow the same laws and procedures as all others to collect funds for debts and obligations. The CAC has no authority to simply withhold any costs he so unilaterally determines he is due from the SA. If the CAC is due funds from the SA, the process is to request the funds from the Successor Agency, to be reviewed and approved for placement on a

subsequent ROPS to be approved by SA, Oversight Board and DOF. (b) The DOF has already issued some guidance on the issue of collecting funds to cover the costs of DDRs in their FAQs on this issue in which the DOF indicated the funds for conducting the DDR (by hiring an outside auditor) "should be paid out of the current administrative cost allowance. If there is not sufficient RPTTF available," (which in our case there is not), "HSC section 34173 (h) allows the successor agencies to obtain a loan for the cost. This loan, if approved by the successor agency's oversight board, would qualify as an enforceable obligation. The enforceable obligation must be included on the ROPS and approved by the oversight board." The CAC has not followed the appropriate procedures to request the debt he believes is due for CAC services to perform the DDR.

EXPEDITED REVIEW REQUESTED: As noted above, there are insufficient funds available to make the ROPS payments, the SA is requesting an expedited review.

B. Background/History *(Provide relevant background/history, if applicable.)*

Most of the necessary information is contained in Section A. Summary of Disputed Issues. In addition, regarding the \$426,210 SERAF repayment: AB X1 26 (and AB 1484) provides that a certified Recognized Obligation Payment Schedule shall be submitted to the Oversight Board and a copy provided to the County Auditor-Controller and Department of Finance. The ROPs for the period of January 2012 through June 2012 was submitted and approved by the Oversight Board, Auditor-Controller and DOF and thus, cannot be challenged at this time. If a challenge had been filed during the review period, the analysis may have been correct at that time. The DOF informed the City on August 7, 2012 of its approval of the ROPS. Since the payment has already been made based on a valid ROPS it cannot be challenged at this time pursuant to Health & Safety Code section 34182.5. In fact, in the DOF's guidance on the Meet and Confer procedures, DOF indicates the only ROPS that can be appealed is the January 2013 to June 2013 (ROPS III) given that the DOF has already approved all of the payments. Thus, the repayment of the SERAF loan, as approved by SA, OB, and DOF and made on January 31, 2012 is no longer able to be challenged.

Health & Safety Code section 34182.5 was added by AB 1484 and was not in effect at the time the SERAF loan payment was made to the Housing Authority. Contrary to the CAC's assertion, the payment was not backdated, and was made with full approval of the Oversight Board and DOF.

C. Justification *(Provide additional attachments to this form, as necessary.)*

1. DOF's November 9, 2012 DDR Determination Letter.
2. CAC's October 30, 2012 Notice to State of Successor Agency Insuff Funds.
3. South Tahoe Redevelopment Successor Agency (STRSA's) October 9, 2012 letter to CAC's objecting to actions relevant to those as described in this Meet and Confer Request.
4. STRSA's ROPS III.
5. CAC's Due Diligence Review
6. For the issue on the CAC's withholding of funds in addition to the County's administrative fees see: http://www.dof.ca.gov/redevelopment/due_dilligence/documents/FAQ-Due_Diligence_Reviews.pdf

Agency Contact Information

Name: NANCY KERRY

Title: CITY MANAGER

Phone: 530-307-3237

Email: nkerry@cityofslt.us

Date: November 14, 2012

Name: PATRICK ENRIGHT

Title: CITY ATTORNEY

Phone: 530-542-6049

Email: penright@cityofslt.us

Date: November 14, 2012

Department of Finance Local Government Unit Use Only

REQUEST TO MEET AND CONFER DATE: APPROVED DENIED

REQUEST APPROVED/DENIED BY: _____ DATE: _____

MEET AND CONFER DATE/TIME/LOCATION: _____

MEET AND CONFER SESSION CONFIRMED: YES DATE CONFIRMED: _____

DENIAL NOTICE PROVIDED: YES DATE AGENCY NOTIFIED: _____



EDMUND G. BROWN JR. • GOVERNOR

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

October 8, 2012

Ms. Debbie McIntyre, Accounting Manager
City of South Lake Tahoe
1901 Airport Road
South Lake Tahoe, CA 96150

Dear Ms. McIntyre:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the South Tahoe Redevelopment Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 28, 2012 for the period of January through June 2013. Finance has completed its review of your ROPS III, which may have included obtaining clarification for various items.

Based on our review, we are approving all of the items listed on your ROPS III at this time.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$ 2,240,820 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 2,115,820
Less: Six-month total for item(s) denied or reclassified as administrative cost	0
Total approved RPTTF for enforceable obligations	<u>\$ 2,115,820</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	125,000
Total RPTTF approved:	\$ 2,240,820

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

Please refer to the ROPS III schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS III Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%20III%20Forms%20by%20Successor%20Agency/).

Ms. Debbie McIntyre
October 8, 2012
Page 2

All items listed on a future ROPS are subject to a subsequent review. An item included on a future ROPS may be denied even if it was not questioned from the preceding ROPS.

The amount available from the RPTTF is the same as the 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.

Please direct inquiries to Beliz Chappuie, Supervisor or Mindy Patterson, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Michael Nakama, Director of Finance, City of South Lake Tahoe
Ms. Sally Zutter, Acting Division Manager, El Dorado County Auditor Controller



City of South Lake Tahoe

"making a positive difference now"

October 9, 2012

County of El Dorado
Office of Auditor-Controller
Attn: Joe Harn, Auditor Controller
360 Fair Lane
Placerville, CA 95667

RE: Objection to Estimated Redevelopment Property Tax Trust Fund Allocations and Distributions for Period of June 1, 2012 to December 31, 2012; Objection to Recovery of Auditor-Controller's Costs for Due Diligence Review.

Mr. Harn:

The South Tahoe Redevelopment Successor Agency is in receipt of the Estimated Redevelopment Property Tax Trust Fund Allocations and Distributions for the Period of June 1, 2012 to December 31, 2012 (hereinafter "Estimate"). This Estimate is performed pursuant to Health & Safety Code section 34182(c)(3) which requires the Estimate to be completed by April 1 and October 1 for the upcoming six-month period.¹ This is the first Estimate that Successor Agency has received for the current six months through December 31, 2012.

County-Auditor cannot arbitrarily withdraw \$1.5 million in Property Tax from the Redevelopment Property Tax Trust Fund account to pay a debt of the former redevelopment agency

The Estimate indicated that the Successor Agency will receive \$826,415 in Tax Increment for the six month period following a deduction by the Auditor-Controller of approximately \$1.5 million to pay the back tax increment due on a reassessment of a property in the Project Area. The South Tahoe Redevelopment Successor Agency objects to the deduction by the County-Auditor of the reassessment of approximately \$1.5 million from the Redevelopment Property Tax Trust Fund in violation of Health & Safety Code section 34183.

The Successor Agency objects to the "off the top" deduction of the \$1.5 million because this is a debt of the Successor Agency and is listed on the Recognized Obligation Payment Schedule (ROPS) for the period of January – June 2013. It was not listed on the ROPS for the period of July 1, 2012 to December 31, 2012 because it was not a known obligation with a known payment

¹ AB 26 originally had the dates as May 1 and November 1, but AB 1484 moved the date up 30 days to April 1 and October 1.

due. This \$1.5 million debt occurred following an appeal by a collective group of property owners of a site known as the Chateau parcels. The property owners appealed their assessment of property taxes owed from years 2009, 2010 and 2012. Their appeal was heard by the El Dorado County Board of Equalization, which recently decided to grant the appeal and allow the property owners to reduce the amount of their property tax **debt for back taxes** owed to the County-Auditor.

Without conceding any argument that the Successor Agency may have otherwise, assuming that this approximately \$1.5 million is a debt of the South Tahoe *Successor Agency* because their property taxes had been advanced to the South Tahoe Redevelopment Agency under the Teeter Plan during each of the years in question (2009, 2010 and 2012), it is the South Tahoe *Redevelopment Agency* that the County-Auditor indicates now owed the funds (approximately \$1.5 million) to the County. Since the Redevelopment Agency was dissolved by the State (Under AB x1 26) the *only method of collecting a debt of the former redevelopment agencies* is to follow the law set in place by AB x1 26 and AB 1484, which requires debts of the former redevelopment agencies to be placed on a ROPS for the period in which a payment is due; the ROPS are then approved by the Successor Agency, then the Oversight Board, followed by the County-Auditor, California Department of Finance and State Controller's Office. Only those debts and payments listed on the ROPS and approved by all of the aforementioned agencies can be paid. If an obligation is not listed on the ROPS, it therefore cannot be paid out of Redevelopment Property Tax Trust Fund (hereinafter "RPTTF"). Health & Safety Code section 34177(a)(3) provides:

Commencing on the date the Recognized Obligation Payment Schedule is valid pursuant to subdivision (l), only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency for the funds specified in the Recognized Obligation Payment Schedule.

In a letter dated July 12, 2012 from Kristin Shelton, Program Budget Manager, Department of Finance (hereinafter "DOF") states pursuant to Health & Safety Code section 34177(1)(2)(C), DOF has completed its review of the ROPS for the periods January through June 2012 and July through December 2012 and issued approval letters accordingly. Furthermore, in a letter dated, October 8, 2012, from Steve Szalay, Local Government Consultant, ROPS III for the period from January 1, 2013 to June 30, 2013 has been approved by DOF.

The ROPS III lists the El Dorado County Re-assessment as a recognized obligation in the amount of approximately \$1.5 million. AB 1484 does not contemplate a possibility where the Oversight Board or anyone else could submit an amendment to the ROPS after DOF has approved the ROPS. There are also some practical considerations in the AB 1484, in that Section 34813(c)(3) required the County Auditor-Controller not later than October 1 and April 1 of each year, to submit estimates for the coming RPTTF disbursements to the Successor Agency, the taxing entities and DOF. Therefore, in light of Section 34181(c)(3), October 1, 2012 is the deadline for the submission of amendments to ROPS III.

The approval of the ROPS for the periods through June 30, 2013 has been finalized and any objections or disputes must be addressed in the ROPS IV for the period of July 1 to December 31, 2013. **There can be no changes or amendments to the ROPS for the period of June to June 30, 2013.**

The \$1.5 million is an Enforceable Obligation of the Successor Agency

In fact, neither the Successor Agency nor the Oversight Board of the Successor Agency have yet received any formal written notice of the \$1.5 million obligation owed to the County as a result of the appeal. The Successor Agency received information that was informally provided indicating that the obligation exists due to the appeal of the property owners of the Chateau parcels. The County-Auditor's unilateral action withdrawing the funds from the RPTTF would be in direct violation of law. The County-Auditor cannot place a debt he believes is owed to the County by the former redevelopment agency ahead of other obligations owed by the redevelopment agency just because he has access to the fund account. No other debtor has access to the fund account and if such debtor did, that debtor too could not place the relevant debt ahead of others. AB x 1 26 and AB 1484 provide strict guidelines as to which debt is obligated to be paid in which order, providing assurance that debts owed by the former redevelopment agencies and now the Successor Agencies would be paid in a manner consistent with the priorities of their obligations.

For the funds the County-Auditor has informally indicated are owed to the County-Auditor by the former redevelopment Agency, the County-Auditor must follow the law and submit a request to the Successor Agency for the debt to be paid, provide the necessary documentation to demonstrate the debt occurred and is now owing, ask the Successor Agency to place the total and exact amount of the debt to be placed on subsequent ROPs and follow the County's past-practice to allow for the repayment to occur over time to minimize impact and request approval of the debt by the Successor Agency, Oversight Board, DOF, and SCO. The Successor Agency already placed an estimate of the *anticipated debt* (based on informal conversations with County-Auditor) debt of approximately \$1.5 million on the ROPS, which was approved yesterday (October 8, 2012) and will be paid when sufficient tax increment is available.

Section 34183² provides that the Auditor-Controller may deduct administrative costs allowed under section 34182 and Section 95.3 of the Revenue & Taxation Code. Revenue & Taxation Code 95.3 allows for the Auditor-Controller's property tax administrative costs, **but it does not provide for the reduction of property tax revenues for prior fiscal years. The Auditor-Controller is limited to deducting his administrative costs from the current tax increment to be paid to the Successor Agency, and cannot deduct the prior year's reassessment (which was distributed to the former redevelopment agency and which has now been dissolved, the agency does not exist) from the RPTTF to be transferred to the Successor Agency.** The RPTTF to the Successor Agency shall be approximately \$2.3 million for the period of June 1 to December 31, 2012, and not \$826,415 provided for in the Estimate.

² Unless otherwise stated all "section" references are to the Health & Safety Code, as amended by AB 26 and 1484.

If the County Auditor is Allowed to Deduct the Payment for the Reassessment Prior to the Transfer of the Funds into the RPTTF, the Pass-Through Payments to the Taxing Entities Will Have to Cease and the County will have to Give a Loan to the Successor Agency

If the Auditor-Controller would have been allowed to deduct a debt of the former redevelopment agency of approximately \$1.5 million from the Successor Agency's RPTTF in violation of Health & Safety Code section 34183, insufficient funds would be available for the Successor Agency to meet its approved obligations, resulting in the immediate suspension of pass-through payments to taxing entities and a need for a loan from the County to the Successor Agency.

The Successor Agency is mandated to allocate moneys in the RPTTF in the following order:

1. Debt service payments scheduled to be made for tax allocation bonds
2. Payments to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only if the agency's tax increment revenues were also pledged for the repayment of the bonds.
3. Payments scheduled for other debts and obligations listed in the ROPS
4. On June 1 and January 2 to each Successor Agency for the administrative cost allowance.
5. On June 1 and January 2 any moneys remaining in the RPTTF shall be distributed to local agency and school entities in accordance with 34188. (proportionate to its share of property tax revenues)

Shortfall in the RPTTF

If the County-Auditor's unilateral action to withdraw approximately \$1.5 million from the RPTTF was allowed to stand, it would have resulted in an estimated revenue of \$826,415 and a project expense of \$2.3 million on the **approved** ROPS for the period of June to December 2012, the Successor Agency would have a significant insufficiency. The Successor Agency would therefore need to report that insufficiency pursuant to Health & Safety Code section 34183(b) that the total amount available to the Successor Agency for the Redevelopment Property Tax Trust Fund allocations to the Successor Agency Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, **are insufficient to fund the payments required by paragraphs (1) to (3) above.**

Health and Safety Code Section 34183 require that if a shortfall of tax increment exists to meet the obligations approved on the current period ROPS, the County Auditor-Controller shall, after deducting administrative costs that are allowed under Section 348182 and Section 95.3 of the Revenue & Taxation Code, the County-Auditor must cease making payments as follows:

1. Cease any distributions to taxing entities pursuant to 5 above.
2. Deduct amounts available for distribution for administrative costs

3. If still insufficient, then pass though payments become subordinate to debt service payments required for enforceable obligations and cannot be paid.

In accordance with AB x1 26 and AB 1484, the County Treasurer may loan any funds from the County treasury to the RPTTF for the purpose of paying ROPS approved obligations. This loan may be made at the request of the DOF or the Successor Agency to ensure prompt payments of redevelopment agency debts. The loan would become an enforceable obligation under AB x1 26 and AB 1484 and placed on subsequent ROPS for repayment.

The Auditor-Controller **has no authority** to revise the ROPS, to deduct the debt *owed by* the former redevelopment agency prior to the payment of tax increment into the RPTTF to the Successor Agency., The County-Auditor must ensure there are sufficient funds in the RPTTF to allow the Successor Agency to make the necessary payments to the bondholders under Section 34183 as identified on the approved ROPS.

Objection to County-Auditor's Housing Due Diligence Report (DDR)

The Successor Agency received a Housing Due Diligence Report (DDR) from the County-Auditor on October 2, 2012 (the deadline for the report was October 1, 2012).

The County-Auditor had mysteriously objected to the Successor Agency's selection of an independent auditor to perform the DDR. The objection from the County-Auditor came after the auditor was selected and although County-Auditor has indicated he will provide information as to why he objected, no such analysis has been forthcoming.

The County-Auditor performed the DDR and sent it to the Successor Agency on October 2, 2012. The report arrived at 12:17 p.m., during the meeting of the Successor Agency to review and receive the report. The agency accepted the report but objected to the following in the report:

1. County-Auditor refused to acknowledge the transfer of \$426,210 by the South Tahoe Redevelopment Agency from the Housing Fund Balance to the South Tahoe Housing Authority. Section 34171 (d)(1) states that an enforceable action means any of the following:
 - (G) Amounts borrowed from, or payment owing to, the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as the effective date of the acting adding this part; provided, however, that the repayment schedule is approved by the oversight board. **Repayments shall be transferred to the Low and Moderate Income Housing Fund established pursuant to subdivision (d) of Section 34176, as housing assets and shall be used in a manner consistent with the affordable housing requirements of the Community Redevelopment Law.**

The part in bold was added by AB 1484, which was enacted in June 2012. In the fall of 2011, the Oversight Board (OB) approved the payment of the amount borrowed from the Low and Moderate Income Housing Fund as listed on the ROPS for the period of January 2012 to June 2012, and the funds were transferred in February 2012 in accordance with AB x2 16 and before the passage of AB 1484. Therefore, when AB 1484 was adopted and enacted into law it was after the funds had been already transferred to the Housing

Authority and AB 1484 did not include any provision to rescind the action allowed for in AB x1 26.

In addition, Section 33176(e) provides that for purposes of this part, "housing asset" includes the following:

(6)(A) Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund pursuant to subsection (d) of Section 34171, which shall be used consistent with the affordable housing requirement in the Community Redevelopment Law.

Section (6)(B) discusses that payments are not to begin until 2013-14, but in the case of the South Tahoe Successor Agency, the payment has already been made per OB approval and the ROPS was approved by the DOF. Therefore, the Low and Moderate Housing loan is a "housing asset," and since it has already been paid there will be no need in future years to repay the loan per 33176(e)(6)(B).

2. County-Auditor failed to acknowledge the South Tahoe Redevelopment Agency (STRA)'s commitment of \$2.5 million to the Low-Moderate Income Housing Project known as *The Aspens*. The Successor Agency provided to Mr. Harn resolutions adopted by the STRA committing the funds to the project, which also commits the entire Housing Fund balance of \$1,485,309 million to the Aspens project.

Therefore, in opposition to the County-Auditor's Housing Due Diligence Report there are no funds available for distribution to the taxing entities. The Successor Agency objects to the County-Auditor's Housing Due Diligence Report and strongly objects to the County-Auditor failing to knowledge the Successor Agency's submission of information and documents contradicting the DDR.

Finally, the Successor Agency also objects to the County-Auditor withdrawing funds from the RPTTF account to cover the cost of his time and other staff members time to prepare the DDR and the agreed upon procedures audit of the redevelopment agency pursuant to Section 34182. The County-Auditor receives compensation for 'administrative costs,' associated with the cost of their staff time to perform administrative work as a result of the dissolution of redevelopment agency in accordance with AB x1 26 and AB 1484. There is no provision under the laws for the County-Auditor to withdraw additional funds (in addition to the administrative fees) for 'staff time.' The County-Auditor's and his staff's time are not actual "costs" borne by the agency that should be deducted.

Sincerely,



Patrick L. Enright
City Attorney
City of South Lake Tahoe

cc: Nancy Kerry, City Manager, City of South Lake Tahoe
Chairperson, South Tahoe Oversight Board
Chris Hill, California State Department of Finance
Steve Buckland, State Department of Finance
Zackery Stacey, State Department of Finance

Attachments: October 8, 2012 letter from DOF approving ROPS for Period January to June 2013



County of El Dorado
OFFICE OF AUDITOR-CONTROLLER

360 FAIR LANE
PLACERVILLE, CALIFORNIA 95667-4193
Phone: (530) 821-5487 Fax: (530) 295-2535

JOE HARN, CPA
Auditor-Controller

BOB TOSCANO
Assistant Auditor-Controller

October 30, 2012

Chris Hill
California State Department of Finance
915 L Street
Sacramento, CA 95814

Scott Taylor
California State Controller's Office
P.O. Box 942850
Sacramento, CA 94250

Subject: South Tahoe Successor Agency Insufficient Funds Notice

Dear Sirs:

Pursuant to H&S§34183(b), the South Tahoe Successor Agency has notified the El Dorado County Auditor-Controller that insufficient funds are anticipated to pay approved January-June 2013 ROPS items. This October 21, 2012 notification is enclosed.

H&S§34183(b) directs my office to notify the State Controller and State Department of Finance within 10 days from the date of the aforementioned notification. This letter constitutes such notification.

The next step is for my office to verify whether the Successor Agency will have sufficient funds from which to service debts according to the January-June 2013 approved ROPS and report the findings to the State Controller. The Successor Agency has requested this to occur within 10 days from their October 21 notification. I do not believe that timeframe will be feasible, nor is that timeframe required under the law. I will however perform the verification as soon as possible, and contingent upon the receipt of necessary information from the Successor Agency.

Notably, the Successor Agency's October 21 notification made no report regarding the amounts of "other funds transferred from each redevelopment agency" and "funds that have or will become available through asset sales and all redevelopment operations", as required in H&S§34183(b). This information will also need to be obtained from the Successor Agency in order to perform the verification.

Of critical timing, since the DOF's determination on the Due Diligence is due November 9, it appears the \$426,210 located in the Low and Modified Income Housing (LMIH) Fund could be used to pay Enforceable Obligations on the January-June 2013 ROPS. However, to make the \$426,210 potentially available, the DOF would need to find in its determination that an adjustment is necessary to the

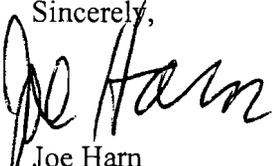
Chris Hill & Scott Taylor
Subject: South Tahoe Successor Agency Insufficient Funds Notice
October 30, 2012

Oversight Board's Due Diligence adjustment (as shown in the Oversight Board Resolution 2012-10). I believe my letter to you, dated October 22, 2012, clearly shows that the \$426,210 is not a housing asset. Discussion continues in the next paragraph as to why the \$426,210, as a Successor Agency balance rather than a housing asset, might be available to pay ROPS items.

It appears the \$1,485,309 located in the LMIH Fund, as shown in the Due Diligence report, could be used to pay the Enforceable Obligations on the January-June 2013 ROPS. H&S§34179.6(c)/(d) appears to provide authority for an Oversight Board and/or the DOF to determine that LMIH Fund balances should be held for payment of ROPS items instead of being distributed to the Affected Taxing Entities. Further, the concept is supported by the clear intent of the Legislature to allow for cash flow reserves, avoid default, and winddown affairs as indicated in various sections of the Health and Safety Code [including H&S§34167(a), H&S§34169(f), H&S§34171(d)(1)(A), H&S§34177(a), H&S§34177(a)(4), H&S§34177(h), H&S§34177(l)(1)(E), H&S§34179.5(c)(5)(D), and H&S§34177(c)(6)]. Unfortunately, the Oversight Board did not exercise their authority under H&S§34179.6(c) to reserve funds to pay for January-June 2013 ROPS Enforceable Obligations. However, it appears that the DOF may authorize such treatment via H&S§37149.6(d).

Please contact me if you have any questions.

Sincerely,



Joe Harn
Auditor-Controller

cc: South Tahoe Successor Agency
Oversight Board
Sally Zutter, El Dorado County Auditor's Office

Enclosure



OFFICE OF THE CITY ATTORNEY
CITY OF SOUTH LAKE TAHOE

Patrick Enright, City Attorney
Nira Feeley, Deputy City Attorney
Michael Ng, Law Clerk

1901 Airport Road, Ste. 300
South Lake Tahoe, CA 96150
(530) 542-6046

www.cityofslt.us

October 21, 2012

County of El Dorado
Office of Auditor-Controller
Attn: Joe Harn, Auditor Controller
360 Fair Lane
Placerville, CA 95667

AUDITOR-CONTROLLER
12 OCT 25 AM 10:55

RE: Notice of Insufficient Funds to the Redevelopment Property Tax Trust Fund to the Successor Agency to Fund Payments Required by Paragraphs (1) to (3) of the Health & Safety Code section 34183(a) for the Next Six Month Fiscal Period.

Mr. Harn:

As stated in the Successor Agency's letter of October 9, 2012, the South Tahoe Redevelopment Successor Agency is in receipt of the Estimated Redevelopment Property Tax Trust Fund Allocations and Distributions for the Period of June 1, 2012 to December 31, 2012 (hereinafter "Estimate"). This Estimate is performed pursuant to Health & Safety Code section 34182(c)(3) which requires the Estimate to be completed by April 1 and October 1 for the upcoming six-month period. The estimate that you provided shows a shortfall of \$1,863,470 after making all of the payments on the ROPS.

The Successor Agency continues to object to the unilateral seizure of the \$1.5 million in Property Tax revenues to the Redevelopment Property Tax Trust Fund (RPTTF), but without waiving its objection, the Successor Agency reports to you that there is a serious insufficiency of funds available to the Successor Agency from the Redevelopment Property Tax Trust Fund allocations. The funds to be transferred to the RTPPF, and any funds that have or will become available through asset sales and all redevelopment operations, **are insufficient** to fund the payments required by paragraphs (1) to (3) of Health & Safety Code section 34183(a). Pursuant to Health & Safety Code section 34183(b), the South Tahoe Redevelopment Successor Agency is serving notice to you of this insufficiency. At the Oversight Board meeting of October 11, 2012 you acknowledged receiving notice from the Successor Agency via electronic communication on October 9, 2012 (hard copy sent via U.S. Mail). This notice requests verification of insufficient funds to service debts according to the ROPS and require you to report the findings to the Controller, in accordance with Health & Safety Code section 34183(b). If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraph (4) of

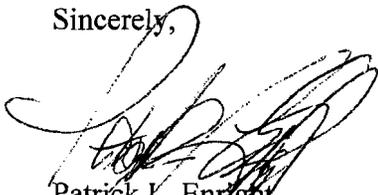
Health & Safety Code section 34183(a), and if the amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3) of Health & Safety Code section 34183(a).¹ If there are still insufficient funds (which it appears there are), and if an agency, pursuant to Sections 33492.15, 33492.72, 33607.5, 33671.5, 33681.15 or 33688 or as expressly provided in a pass-through agreement entered into pursuant to Section 33401, made pass-through payments obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for pass-through payments under paragraph (1) of Health & Safety Code section 34183, as provided in those sections.

The Successor Agency requests that the Auditor-Controller perform the above calculations as quickly as possible, but no later than ten days from the date of this letter so the Successor Agency may request the County Treasurer loan funds to the Redevelopment Property Tax Trust Fund of the South Tahoe Successor Agency to ensure prompt payments of the redevelopment agency debts. The loan would become an enforceable obligation of the Successor Agency and placed on a subsequent Recognized Obligation Payment Schedule (ROPS). The loan amount would be lower than the original estimate of \$1,863,470 after the deductions required by Health & Safety Code section 34183. This request and subsequent loan request will be in accordance with Health & Safety Code section 34183(c), and if necessary, the Successor Agency will ask that the Department of Finance request the County Treasurer to make the loan.

The Successor Agency continues to object to the unilateral seizure of approximately \$1.5 million in property taxes taken from the Successor Agency Redevelopment Property Tax Trust Fund Account for property taxes collected for and given to the former South Tahoe Redevelopment Agency during tax years 2009, 2010, and 2011; years in which the Redevelopment Agency existed. Section 34182(c)(1) is clear the County-Auditor Controller shall, “*calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to Section 2052 of the Revenue & Taxation Code, and pursuant to statutory formulas or contractual agreements with other taxing entities, as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.*” The Auditor Controller has no discretion but to deposit the property tax revenues using current assessed values on the last equalized roll on August 20, and cannot deduct funds due to the Successor Agency for funds previously collected for and given to the former Redevelopment Agency. Should the County Auditor-Controller determine that property tax increment collected for and given to the former Redevelopment Agency is now due to be returned to the County, the County-Auditor Controller must submit that debt obligation to the Successor Agency and request placement on the ROPS, and follow the same procedures and processes and other debt collectors for debts and obligations of the former redevelopment agency.

If you have any questions, please contact the undersigned.

Sincerely,



Patrick L. Enright
City Attorney
City of South Lake Tahoe

cc's: Listed on next page

¹ Since you are the Auditor and Controller of El Dorado County this should be a formality of the review of the Controller.

cc: Nancy Kerry, City Manager
Board of Directors, South Tahoe Oversight Board
C.L. Raffety, El Dorado County Treasurer
Chris Hill, California State Department of Finance
Steve Backlund, State Department of Finance
Zackery Stacey, State Department of Finance



November 9, 2012

Ms. Debbie McIntyre, Accounting Manager
City of South Lake Tahoe
1901 Airport Road
South Lake Tahoe, CA 96150

Dear Ms. McIntyre:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of South Tahoe Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 15, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

The DDR indicates the Low and Moderate Income Housing Fund (LMIHF) amount to be remitted to the County for distribution to taxing entities is \$1,911,519. However, the oversight approved amount is \$1,485,309. There is a \$426,210 difference between the oversight board approved amount and the DDR reported amount.

The \$426,210 represents a loan repayment to the LMIHF. The Agency would like to retain the funds to use for housing projects; however, HSC section 34163 (b) prohibits an agency from entering into contracts with any entity for any purpose after June 28, 2011. Therefore, Finance concludes that this money should be distributed to the affected taxing entities.

Consequently, the Agency's LMIHF balance available for allocation to the affecting taxing entities is \$1,911,519.

If you disagree with Finance's determination regarding the amount of LMIHF 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/

Absent a Meet and Confer request, HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller 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.

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, that taxing entity's failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

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 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 and Finance's Housing Assets Transfer letter dated September 5, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Beliz Chappue, Supervisor or Mindy Patterson, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Michael Nakama, Director of Finance, City of South Lake Tahoe
Ms. Sally Zutter, Acting Division Manager, El Dorado County Auditor Controller
California State Controller's Office

Frequently Asked Questions Regarding Due Diligence Reviews

1. Question: “Licensed accountant” is not a defined term. Is the “Due Diligence Review” task only to be performed by an accountant who has a license issued by the Department of Consumer Affairs?

Answer: If the local decision is to not use the county auditor-controller to perform the due diligence review, then an accountant licensed by the Department of Consumer Affairs, California Board of Accountancy, must be used.

2. Question: Is the concept of “experience and expertise in local government accounting” subject to the discretion and judgment of the successor agency or does the SCO and DOF want to define a set minimum number of years of experience?

Answer: Determining the appropriate amount of experience and expertise in local government accounting is at the discretion and judgment of the successor agency. We will not be establishing a requirement for a minimum number of years of experience.

3. Question: Who should engage the accountant for this task and how should the County’s approval be communicated?

Answer: It is up to the successor agency to engage the entity that will be performing the Due Diligence Reviews. When submitting the Due Diligence Review to the DOF, the successor agency shall include a cover page that indicates whether the due diligence review was conducted by a licensed accountant or the county auditor-controller along with verification of approval or concurrence of the due diligence reviewer by the appropriate entity.

4. Question: If the Auditor-Controller does this work, do any personnel used have to also be “licensed accountants”?

Answer: No.

5. Question 2: AB 1484 requires each successor agency to employ a licensed accountant to conduct a due diligence review. Does the cost for this requirement need to come out of the administrative budget of the successor agency?

Answer: To the extent available the cost for the due diligence review should be paid out of the current administrative cost allowance. If there is not sufficient RPTTF available, HSC section 34173 (h) allows the successor agencies to obtain a loan for the cost. This loan, if approved by the successor agency’s oversight board, would qualify as an enforceable obligation. HSC section 34177.3 (b) also allows successor agencies to create an enforceable obligation to conduct the work of winding down the redevelopment agency. The enforceable obligation must be included on the ROPS and approved by the oversight board.



County of El Dorado
OFFICE OF AUDITOR-CONTROLLER

360 FAIR LANE
PLACERVILLE, CALIFORNIA 95667-4193
Phone: (530) 621-5487 Fax: (530) 295-2535

JOE HARN
Auditor-Controller

BOB TOSCANO
Assistant Auditor-Controller

October 2, 2012

**Oversight Board of the Successor Agency
South Tahoe Redevelopment Successor Agency
South Lake Tahoe, California**

Subject: Due Diligence Review

Ladies and Gentlemen:

Attached you will find a copy of the Due Diligence Review for the Low and Moderate Income Housing Fund that is required by California Health and Safety Code Section 34179.5.

There is a \$426,210.23 disagreement between the Successor Agency staff and my office regarding the amount to be remitted to the County for disbursement to taxing entities. The attached review indicates that the amount to be remitted to the County for disbursement to taxing agencies is \$1,911,519.23. The Successor Agency staff believes the appropriate amount is \$1,485,309.00.

The Successor Agency staff has not had adequate time to review this report and to develop complete arguments regarding this issue. Further, my office has not had adequate time to fully discuss this issue with the Successor Agency staff. I intend to continue working with the Successor Agency staff during the comment period.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Harn".

**Joe Harn, CPA
Auditor-Controller**

SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY

Low and Moderate Income Housing Fund

Due Diligence Review Pursuant to Health and Safety Code Section 34179.5

June 30, 2012

SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY
Low and Moderate Income Housing Fund
Due Diligence Review Pursuant to Health and Safety Code Section 34179.5
June 30, 2012

TABLE OF CONTENTS

El Dorado County Auditor-Controller's Report on
Applying Agreed Upon Procedures

Minimum Required Disclosures

Attachment A-List of Procedures for Due
Diligence Review



County of El Dorado
OFFICE OF AUDITOR-CONTROLLER

360 FAIR LANE
PLACERVILLE, CALIFORNIA 95667-4193
Phone: (530) 621-5487 Fax: (530) 295-2535

JOE HARN
Auditor-Controller

BOB TOSCANO
Assistant Auditor-Controller

REPORT ON APPLYING AGREED-UPON PROCEDURES

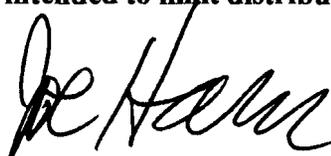
**Oversight Board of the Successor Agency
South Tahoe Redevelopment Successor Agency
South Lake Tahoe, California**

We have performed the minimum required procedures enumerated in Attachment A, which were agreed to by the State Controller's Office and the California Department of Finance, solely to assist you in ensuring that the Successor Agency is complying with statutory requirements with respect to Health and Safety Code (HSC) 34179.5 as applied to the Low and Moderate Income Housing Fund. The Successor Agency is responsible for the accounting records pertaining to statutory compliance pursuant to HSC 34179.5. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of 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.

The scope of the engagement was limited to performing the minimum required agreed-upon procedures as set forth in Attachment A. Included in the minimum required disclosures is a computation of the amount to be remitted to county for disbursement to affected tax entities. It is the opinion of the management of the successor agency that this total is \$426,210 higher than the amount required by HSC 34179.5.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion as to the appropriateness of the attached disclosures which were required by Health and Safety Code 34179.5. 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.

The report is intended solely for the information and use of the State Controller's Office, Department of Finance, and the South Tahoe Redevelopment Successor Agency and is not intended to be and should not be used by anyone other than those specified parties. The restriction is not intended to limit distribution of this report, which is a matter of public record.

 10-2-12
Placerville, California

SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY
Low and Moderate Income Housing Fund
Due Diligence Review Pursuant to Health and Safety Code Section 34179.5
Minimum Required Disclosures
June 30, 2012

The Due Diligence Review to determine the unobligated balance of the Low and Moderate Income Housing Fund available to Taxing Entities is as follows:

1. The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012: H&S Code 34179.5c1

\$1,485,309.00

To demonstrate compliance with H&S Code 34170.5a the City of South Lake Tahoe (SLT), as the successor agency, opened a new fund #725 "Redevelopment (RD) Obligation Retirement Fund" to receive the unobligated asset balance of the Low and Moderate Income Housing Fund #262.

On or around February 1, 2012 the City of SLT transferred the above amount from the Low and Moderate Income Housing Fund #262 to the RD Obligation Retirement Fund #725. This transfer did not include all assets held by the Low and Moderate Income Housing Fund #262 or more specifically did not include an intrafund advance of \$426,210 that was subsequently paid by fund #725 in March of 2012.

2. The dollar value of assets transferred from either the former redevelopment agency or the successor agency to the county, city or city and county from January 1, 2011 through June 30, 2012: H&S Code 34179.5c2

\$0

3. The dollar value of assets transferred from with the former redevelopment agency or the successor agency to any other public agency or private agency from January 1, 2011 through June 30, 2012: H&S Code 34179.5c3

\$0

SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY
Low and Moderate Income Housing Fund
Due Diligence Review Pursuant to Health and Safety Code Section 34179.5
Minimum Required Disclosures
June 30, 2012

4. Expenditure and Revenue information for the Moderate and Low Income Housing Funds for September 30, 2011 through June 30, 2012:

	Fund#262	Fund#725	Total
Beginning Balance October 1, 2011	2,059,703	-	2,059,703
Expenditures:			
Operating Transfer in (out) to City General fund	(28,376)		(28,376)
Transfer in (out) to Housing Fund	(122,168)		(122,168)
Operating Transfer in trust #725 and (out) #262	(1,485,309)	1,485,309	-
Total Expenditures	(1,635,853)	1,485,309	(150,544)
Revenue (Interest)	2,360		2,360
June 30, 2012 Ending Balance	<u>426,210</u>	<u>1,485,309</u>	<u>1,911,519</u>

5. Total value of the Low and Moderate Income Housing Funds/cash and cash equivalents held by the City of SLT in funds # 262 and #725:
H&S Code 34179.5c5A

\$1,911,519.23

Cash and Equivalents itemized by City of SLT Fund#

Fund #262	\$ 426,210.23
Fund #725	<u>1,485,309.00</u>
	<u>\$ 1,911,519.23</u>

6. There are no legally restricted as to purpose funds associated with the Low and Moderate Income Housing Funds as of June 30, 2012: H&S Code 34179.5c5B

SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY
Low and Moderate Income Housing Fund
Due Diligence Review Pursuant to Health and Safety Code Section 34179.5
Minimum Required Disclosures
June 30, 2012

7. There are no assets other than cash and cash equivalents associated with the Low and Moderate Income Housing Funds as of June 30, 2012:
H&S Code 34179.5c5C

8. There are no obligated balances associated with the Low and Moderate Income Housing Funds as of June 30, 2012: H&S Code 34179.5c5D

9. There are no obligated balances associated with the Low and Moderate Income Housing Funds as of June 30, 2012, or items that will need to be placed on the Recognized Obligation Payment Schedules for the current fiscal year.

10. Low and Moderate Income Housing Fund Net Balance Available Calculation:
H&S Code 34179.6

Total Assets held by successor agency as of June 30, 2012 (procedure 5)	\$ 1,911,519.23
Add assets transferred to City or other parties for which an enforceable obligation did not exist (procedures 2 and 3)	-
Less legally restricted assets (procedure 6)	-
Less assets that are not cash or cash equivalents (procedure 7)	-
Less balances that are restricted by a legal obligation (procedures 8)	-
Less balances needed to satisfy ROPS for the 2012-13 fiscal year (procedures 9)	-
Less amount of payments made on July 12, 2012 to the County Auditor-Controller as directed to the Department of Finance	-
	\$ 1,911,519.23
Amount to be remitted to county for disbursement to taxing entities	\$ 1,911,519.23

List of Procedures for Due Diligence Review**General information regarding these procedures:**

1. The procedures associated with Sections 34179.5(c)(1) through 34179.5(c)(3) and Sections 34179.5(c)(5) through 34179.5(c)(6) are to be applied separately to (a) the Low and Moderate Income Housing Fund of the Successor Agency and to (b) all other funds of the Successor Agency combined (excluding the Low and Moderate Income Housing Fund).
2. The due date for the report associated with the Low and Moderate Income Housing Fund is October 1, 2012.
3. The due date for the report associated with all other funds of the Successor Agency combined (excluding the Low and Moderate Income Housing Fund) is December 15, 2012.
4. Because the procedures required by Section 34179.5(c)(4) pertain to the Successor Agency as a whole, these procedures should be addressed in the report that is due on December 15, 2012.

Fiscal year references below refer to fiscal years ending on June 30. This language should be modified for those agencies that have a different fiscal year-end.

For purposes of the procedures below and the related exhibits, the amount of the assets presented should be based upon generally accepted accounting principles (GAAP), unless otherwise noted.

To the extent the procedures listed below are duplicative to the agreed upon procedures that were performed pursuant to HSC 34182 (a)(1), it is acceptable to obtain and use information from the HSC 34182 (a)(1) procedures for purposes of this due diligence review without having to re-perform the procedures. When this is done, the due diligence report should refer to the report that was issued for the agreed upon procedures performed under HSC 34182 (a)(1).

Certain assets may qualify as a deduction under more than one category of deduction. In such cases, care should be taken to ensure that such assets have been included as a deduction in the summary schedule only once.

Citation:

34179.5(c)(1) The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012.

Suggested Procedure(s):

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

Citation:

34179.5(c)(2) The dollar value of assets and cash and cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to the city, county, or city and county that formed the redevelopment agency and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.

Suggested Procedure(s):

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

Citation:

34179.5(c)(3) The dollar value of any cash or cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to any other public agency or private party and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.

Suggested Procedure(s):

3. If the State Controller's Office has completed its review of transfers required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report. If this has not yet occurred, perform the following procedures:

ATTACHMENT A

V. 8-27-12

- 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.
- 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.

Citation:

34179.5(c)(4) The review shall provide expenditure and revenue accounting information and identify transfers and funding sources for the 2010–11 and 2011–12 fiscal years that reconciles balances, assets, and liabilities of the successor agency on June 30, 2012 to those reported to the Controller for the 2009–10 fiscal year.

Suggested Procedure(s):

4. Perform the following procedures:
 - A. Obtain from the Successor Agency a summary of the financial transactions of the Redevelopment Agency and the Successor Agency in the format set forth in 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.

Citation:

34179.5(c)(5) A separate accounting for the balance for the Low and Moderate Income Housing Fund for all other funds and accounts combined shall be made as follows:

(A) A statement of the total value of each fund as of June 30, 2012.

Suggested Procedure(s):

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

Citation:

34179.5(c)(5)(B) An itemized statement listing any amounts that are legally restricted as to purpose and cannot be provided to taxing entities. This could include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use.

Suggested Procedure(s):

6. Obtain from the Successor Agency a listing of asset balances held on June 30, 2012 that are restricted for the following purposes:
 - A. Unspent bond proceeds:
 - i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures, amounts set aside for debt service payments, etc.)
 - ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
 - iii. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.

- B. Grant proceeds and program income that are restricted by third parties:
- i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
 - ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
 - iii. Obtain from the Successor Agency a copy of the grant agreement that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.
- C. Other assets considered to be legally restricted:
- i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
 - ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
 - iii. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by Successor the Agency as restricted.
- D. Attach the above mentioned Successor Agency prepared schedule(s) as an exhibit to the AUP report. For each restriction identified on these schedules, indicate in the report the period of time for which the restrictions are in effect. If the restrictions are in effect until the related assets are expended for their intended purpose, this should be indicated in the report.

Citation:

34179.5(c)(5)(C) An itemized statement of the values of any assets that are not cash or cash equivalents. This may include physical assets, land, records, and equipment. For the purpose of this accounting, physical assets may be valued at purchase cost or at any recently estimated market value. The statement shall list separately housing-related assets.

Suggested Procedure(s):

7. Perform the following procedures:
- A. Obtain from the Successor Agency a listing of assets as of June 30, 2012 that are **not** liquid or otherwise available for distribution (such as capital assets, land held for resale, long-term receivables, etc.) and ascertain if the values are listed at either purchase cost (based on book value reflected in the accounting records of the Successor Agency) or market value as recently estimated by the Successor Agency.
 - 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.

Citation:

34179.5(c)(5)(D) An itemized listing of any current balances that are legally or contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation. In addition, the successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. If a review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations.

Suggested Procedure(s):

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

ATTACHMENT A

V. 8-27-12

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.

Citation:

34179.5(c)(5)(E) An itemized list and analysis of any amounts of current balances that are needed to satisfy obligations that will be placed on the Recognized Obligation Payment Schedules for the current fiscal year.

Suggested Procedure(s):

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

Citation:

34179.5(c)(6) The review shall total the net balances available after deducting the total amounts described in subparagraphs (B) to (E), inclusive, of paragraph (5). The review shall add any amounts that were transferred as identified in paragraphs (2) and (3) of subdivision (c) if an enforceable obligation to make that transfer did not exist. The resulting sum shall be available for allocation to affected taxing entities pursuant to Section 34179.6. It shall be a rebuttable presumption that cash and cash equivalent balances available to the successor agency are available and sufficient to disburse the amount determined in this paragraph to taxing entities. If the review finds that there are insufficient cash balances to transfer or that cash or cash equivalents are specifically obligated to the purposes described in subparagraphs (B), (D), and (E) of paragraph (5) in such amounts that there is insufficient cash to provide the full amount determined pursuant to this paragraph, that amount shall be demonstrated in an additional itemized schedule.

Suggested Procedure(s):

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

Suggested Procedure(s):

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