

SUCCESSOR AGENCY CITY OF BRISBANE

OVERSIGHT BOARD MEETING DATE: January 8, 2014

ITEM TITLE: Transfer of Governmental Use Properties

Recommendation:

To approve Resolution OB 2014-01 retroactively accepting transfer of assets from the Low Moderate Income Housing to the Brisbane Housing Authority and to direct staff to write a letter to the State Controller's Office disputing their findings of unallowable transfers.

Background:

When the redevelopment agency was dissolved in February 2012, the assets were transferred to the Successor Agency. In May 2012, the list of properties from the former redevelopment agency was presented to the Oversight Board and at that time it was decided that members of the Oversight Board could take a field trip to review these properties. (Multiple field trips were taken in August and September to assure compliance with the Brown Act.) At the December 12, 2012 Oversight Board meeting, a resolution was passed to transfer the governmental properties to the City of Brisbane. The Housing Fund properties were not transferred since they had a different process to follow. Once the Due Diligence was approved by the Department of Finance, the RDA Housing Fund properties were to be turned over to the City's Housing Authority.

Discussion:

This is the fourth audit of the same items regarding the dissolution of the redevelopment agency. We have been audited by a firm on behalf of the county, we have been audited by our outside auditors, and we have done two audits with another firm for the due diligence reports (DDR's). The same material has been presented to each of them.

According to the engagement letter, "The State Controller's Office (SCO) was charged with determining the dissolved redevelopment agency's compliance with Assembly Bill X1 26 regarding the disposition of the former redevelopment agency's assets. (Health & Safety Code section 34167.5)"

In order to make that determination, the SCO conducted an audit of the Brisbane Successor Agency and Housing Authority books during the weeks of September 30, 2013 to October 10, 2013. The scope of their review generally covered the period of January 1, 2011 through January 31, 2012.

We do not agree with the finding of this audit which is:

- The Brisbane Redevelopment Agency performed unallowable transfers to the City of Brisbane in the amount of \$137,099 on October 4, 2011. The transfers were performed to pay interest expense on cash advances that the City made to the RDA. These transfers will need to be reversed and the assets are to be returned to the Successor Agency. The Successor Agency is then directed to dispose of these assets pursuant to H&S Code sections 34177 (d) and (e).

Date	From RDA Fund#	Reference	Description	To City Fund#	Amount
10/4/2011	281	Journal# 00-15	Annual Interest of 4% of \$2,295,995.92 Advance from Marina Fund	555	\$91,840
10/4/2011	282	Journal# 00-15	Annual Interest of 3.5% of \$1,293,108 Advance from General Fund	100	\$45,259
Total					\$137,099

This is looking at transactions retroactively. We have made these interest payments since fiscal year 2005/06 and the redevelopment agency was not dissolved at the time of the October 2011 payments. Our auditors have stated that the State Controller's Office does not have the authority to do any clawbacks, but we know that the state will do what it wants to do. Additionally, these are the payments for FY 10/11 and could have been made at any time during that fiscal year.

Should we be required to return these funds, \$91,840 will come from the Marina Fund and \$45, 259 from the General Fund.

- The Brisbane Redevelopment Agency (Fund# 283) performed unallowable transfers to the City of Brisbane Housing Authority (Fund# 883) in the amount of \$14,655,364 on February 1, 2012. The assets transferred included \$13,410,252 of current assets and \$1,245,112 of capital assets. These transfers will need to be reversed and the assets are to be returned to the Successor Agency. The Successor Agency is then directed to dispose of these assets pursuant to H&S Code sections 34177(d) and (e). However, it appears that some of these assets also may be subject to the provisions of H&S Code section 34181(a) and (c).

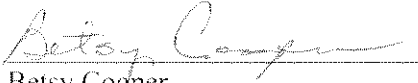
Current Assets		
Account Name	Account#	Amount
Cash Balance	10999	4,262,262.19
Loan Recv. Bridge Housing	14031	2,336,085.61
Loan Recv. First Time Home Buyers	14035	431,500.00
Loan Recv. Habitat	14036	355,290.00
Advances to Other Funds	14250	4,099,278.25
Land Held For Resale	15012	1,925,835.52
Total:		13,410,251.57

Capital Assets		
Asset I.D.	Description	Amount
7221180	Senior Housing	441,000
7281070	125 Visitacion	223,265.99
7281080	163 Visitacion	404,066.60
7281100	348 Monterey Ave	176,779.14
Total:		1,245,111.73

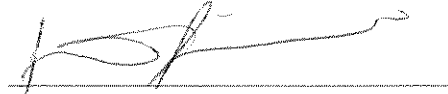
Some of the confusion on the part of the SCO is our use of the same fund numbers. All cash was transferred to the Successor Agency including all the cash in the Low and Moderate Income Housing Fund. That cash was used to pay the Recognized Obligation Payments for January to June 2012 and the tax increment for that period was returned to the county for distribution to the underlying taxing

entities. After the Housing DDR was approved by the Department of Finance we did not formalize the transfer of the non-cash assets to the Housing Authority.

The Oversight Board approved the the transfer of the property, just not by resolution. In order to correct this finding, the Oversight Board needs to retroactively approve the transfer of assets from the Successor Agency to the Brisbane Housing Authority effective February 1, 2012 by resolution.



Betsy Cooper,
Deputy Finance Director



Stuart Schillinger
Administrative Services Director

BRISBANE SUCCESSOR AGENCY OVERSIGHT BOARD

**RESOLUTION
OB 2014-01**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR
AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF
BRISBANE, ACKNOWLEDGING STATE DEPARTMENT OF FINANCE
REVIEW AND FINDINGS REGARDING THE HOUSING ASSET
LIST, AND RETROACTIVELY DIRECTING TRANSFER OF
HOUSING ASSETS SET FORTH IN DEPARTMENT OF FINANCE
APPROVED HOUSING ASSET LIST TO THE CITY OF BRISBANE,
ACTING AS THE HOUSING SUCCESSOR AGENCY, PURSUANT TO
CALIFORNIA HEALTH AND SAFETY CODE SECTION 34181(c)**

WHEREAS, the California state legislature enacted Assembly Bills x1 26 and 1484 to dissolve and unwind the affairs of redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, the City Council of the City of Brisbane (the "City Council") declared that the City of Brisbane, acting in a separate legal capacity and as a separate public entity pursuant to Health and Safety Code Section 34173(g), will act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Brisbane (the "Dissolved RDA") effective February 1, 2012; and

WHEREAS, an oversight board for the Successor Agency (the "Oversight Board") has been established and is functioning in accordance with Health and Safety Code Section 34179; and

WHEREAS, pursuant to Health and Safety Code Section 34176(a)(1), the City Council elected that the City of Brisbane Housing Authority (the "City") will retain the housing assets and functions previously performed by the Dissolved RDA, and will serve as the successor housing agency of the Dissolved RDA effective February 1, 2012; and

WHEREAS, pursuant to Health and Safety Code Section 34176(a)(2), on April 12, 2012, the City submitted the required housing asset transfer list (the "Housing Asset List") to the California Department of Finance (the "Department"); and

WHEREAS, a copy of the submitted Housing Asset List is attached to this Resolution as Exhibit A; and

WHEREAS, the Housing Asset List constitutes a list of all "housing assets" of the Dissolved RDA, as defined in Health and Safety Code Section 34176(e), including: real and personal property interests acquired for low- and moderate-income housing purposes; encumbered funds; loan and grant receivables for assistance provided by the Low and Moderate Income Housing Fund ("Housing Fund"); rents and payments from housing operations; and amounts owed to the Housing Fund as a result of previously deferred or borrowed Housing Fund deposits; and

WHEREAS, the City received a letter from the Department dated August 30, 2012, a copy of which is attached to this Resolution as Exhibit B, approving all housing assets listed in the Housing Asset List (the "Department Approval Letter"); and

WHEREAS, as used in this Resolution, the term "Housing Assets" means all of the assets set forth in the Housing Asset List approved by the Department; and

WHEREAS, the State Controller's Office (the "SCO") is conducting reviews of the assets of all the dissolved redevelopment agencies throughout the State, including eventually the Dissolved RDA's assets, and has preliminarily indicated its view that the transfer of the Housing Assets to the City, as housing successor of the Dissolved RDA, requires Oversight Board action directing transfer of those Housing Assets (in addition to the previous Department approval of the Housing Asset List described above); and

WHEREAS, to comply with the SCO's view, the Oversight Board may pass a resolution retroactively directing transfer of all of the Housing Assets set forth in the Housing Asset List to the City as the housing successor for the Dissolved RDA, as authorized by Health and Safety Code Section 34181(c), including Oversight Board direction for the Successor Agency to enter into such documents and agreements as are appropriate to accomplish this transfer, such as an assignment and assumption agreement for the Housing Assets between the Successor Agency and the City; and

WHEREAS, the proposed actions of the Oversight Board set forth in this Resolution were duly noticed in the City's and Successor Agency's newspaper of general circulation in accordance with Health and Safety Code Section 34181(f); and

WHEREAS, the accompanying Housing Asset List and staff report (the "Staff Report") provide supporting information upon which the actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board of the Successor Agency hereby finds, resolves, approves, determines, and directs as follows:

SECTION 1. The foregoing recitals are true and correct, and together with the following documents and information form the basis for the approvals, authorizations, findings, and determinations set forth in this Resolution: (1) the Housing Asset List; (2) the Department Approval Letter; (3) the Staff Report; and (4) the information provided by the Successor Agency and City staff and the public.

SECTION 2. The Oversight Board hereby acknowledges and confirms that, pursuant to Health and Safety Code Section 34176(a)(2) and as evidenced by the Department Approval Letter, the Department has already fully approved all of the Housing Assets set forth in the Housing Asset List to comprise housing assets as defined in Health and Safety Code Section 34176(e).

SECTION 3. In accordance Health and Safety Code Section 34181(c), the Oversight Board hereby authorizes and directs the transfer of the all of the Housing Assets set forth in the Housing Asset List to the Brisbane Housing Authority, acting as the housing successor to the Dissolved RDA, and such approval shall be retroactive to the date of the transfer of the Housing Assets from the Successor Agency to the City and Brisbane Housing Authority.

SECTION 4. The Successor Agency Executive Director, or the Executive Director's designee, is hereby authorized and directed to execute all documents and take all actions necessary and appropriate to effectuate the transfer of all of the Housing Assets set forth in the

Housing Asset List to the City, including, without limitation, executing and implementing an assignment and assumption agreement with the City with respect to the transfer of the Housing Assets.

SECTION 5. The transfer of the Housing Assets set forth in the Housing Asset List to the Brisbane Housing Authority is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15301 (as an action resulting in continuation of an existing facility) and Section 15061(b)(3) (as an action which it can be seen with certainty will not have a significant effect on the environment). The Oversight Board's Designated Contact Official, or the Designated Contact Official's designee, is hereby authorized and directed to file a notice of exemption in accordance with CEQA in connection with approval of this Resolution and the transfer of the Housing Assets to the City.

SECTION 6. The Successor Agency is hereby directed to notify the Department of the actions set forth in this Resolution in accordance with Health and Safety Code Sections 34179(h) and Section 34181(f).

SECTION 7. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

Paul Scannell, Chairman

ADOPTED January 8, 2014 by the Members of the Oversight Board of the Successor Agency by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sheri Marie Spediacci, City Clerk

EXHIBIT A
HOUSING ASSETS LIST

EXHIBIT B
DOF APPROVAL OF HOUSING ASSETS

STATE CONTROLLER'S OFFICE
ASSET TRANSFER ASSESSMENT
ASSEMBLY BILL X1 26

FORMER REDEVELOPMENT AGENCY NAME
SUCCESSOR AGENCY
CONTACT NAME

Brisbane Redevelopment Agency
City of Brisbane as Successor to Brisbane Redevelopment Agency
Betsy Cooper
PHONE 415-508-2152
TITLE Financial Services Manager

11-DIGIT ID # 13984110700
DATE PREPARED 4/12/2012
E-MAIL ADDRESS bcooper@ci.brisbane.ca.us

A ASSET DESCRIPTION	B CARRYING VALUE AS OF		C IF THE ASSET WAS TRANSFERRED TO A CITY, COUNTY, OR OTHER PUBLIC AGENCY BETWEEN JANUARY 1, 2011 AND JANUARY 31, 2012 (EXCLUDE HOUSING ASSETS): TRANSFER DATE PUBLIC AGENCY	D WAS THE ASSET CONTRACTUALLY COMMITTED OR ENCUMBERED TO A THIRD PARTY AFTER JUNE 29, 2011?		E WAS THE TRANSFER REVERSED?
	DECEMBER 31, 2010	JANUARY 31, 2012		YES/NO	IF YES, DATE	
Project Area #1						
Cash	2,275,693.60	1,900,500.00		No		
Due to Low/Mod Housing Area #1	645,018.67	645,018.67		No		
Senior Housing Leased Land	441,000.00	441,000.00		No		
Bayshore Blvd. Park & Ride Lot	526,271.26	526,271.26		No		
Project Area #2						
Cash	418,938.36	476,701.70		No		
Community Park	1,903,862.00	1,903,862.00		No		
Shared Parking - Marina	5,107.00	5,107.00		No		
Shared Parking - Marina	949.00	949.00		No		
600 Sierra Pt Parkway - Marina Land	5,807.00	5,807.00		No		
Low/Moderate Housing						
Cash	5,608,860.87	4,262,262.19		No		
5 Star Café Property (3parcels)	804,111.73	804,111.73		No		
Lau Property (4 parcels)	-	1,986,136.46		No		
Bridge Housing Loan Receivable	2,336,085.61	2,336,085.61		No		
First Time Home Buyers Receivable	431,500.00	431,500.00		No		
Habitat for Humanity Receivable	355,290.00	355,290.00		No		
Due from Project Area #1	645,018.67	645,018.67		No		
Due from Project Area #2	572,509.33	572,509.33		No		
Advance to RDA #1	4,099,278.25	4,099,278.25		No		
Community Park Improvements	72,660.44	72,660.44		No		



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. ■ GOVERNOR

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

August 30, 2012

Mr. Stuart Schillinger, Administrative Services Director
City of Brisbane
50 Park Place
Brisbane, CA 94005-1310

Dear Mr. Schillinger:

Subject: Housing Assets Transfer Form

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

Finance has completed its review of your Form, which may have included obtaining clarification for various items. Based on a sample of line items reviewed and the application of law, Finance is not objecting to any assets or transfers of assets identified on your Form.

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Sherri Spediacci, City Clerk, City of Brisbane
Mr. Bob Adler, Auditor-Controller, San Mateo County
Ms. Shirley Tourel, Deputy Controller, San Mateo County
Ms. Robyn Rose, Senior Internal Auditor, San Mateo County
California State Controller's Office