

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF  
THE CITY OF SAN JOSE

TO: OVERSIGHT BOARD

FROM: Richard Doyle  
City Attorney

SUBJECT: Transfer of Housing Assets:  
County Children's Shelter Loan

DATE: April 26, 2012

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**RECOMMENDATION**

It is recommended that the Oversight Board adopt a resolution acknowledging that as of February 1, 2012, the County Children's Shelter is one of the housing assets of the Redevelopment Agency of the City of San José ("Agency") transferred to the City of San José ("City"). that the City accepted the housing asset, and that City may exercise all rights and obligations relating to such housing asset.

**BACKGROUND**

In 1988, the Agency and the City entered into a Cooperation Agreement under which the Agency delegated to the City the administration of the Low and Moderate Income Housing Fund ("LMIHF"). Pursuant to the Cooperation Agreement, the City, acting on behalf of the Agency, administered and managed the LMIHF. As such, the City, through its Department of Housing, provided funds from the LMIHF to developers and low income families and individuals. Although the City was acting as the agent of the Agency, the documentation for actions taken by the City during its administration of the LMIHF were done in the name of the City.

Pursuant to ABX1 26, redevelopment agencies in California were dissolved effective February 1, 2012. The legislation, as amended by the California Supreme Court in *California Redevelopment Association v. Matosanto*, also provided that all assets, properties, contracts, leases, books, records, buildings and equipment were transferred to the Successor Agency on February 1, 2012. However, AB X1 26 provided that the City could elect to retain the housing assets and functions previously performed by the Agency.

On January 24, 2012, the Agency's Board of Directors adopted Resolution No. 6033 and the City Council adopted Resolution No. 76128, providing that upon dissolution of the Agency pursuant to AB X1 26, the City would assume the former Agency's housing assets, which includes all rights, interest privileges, property (real, personal and intangible), including all loans and grants, all property such as land, buildings and dwelling units held by the Agency in connection with the production and preservation of low and moderate income housing (collectively, the "housing assets"), and all of the

rights, duties, and obligations that remain under the California Redevelopment Law (“CRL”) with regard to the production and preservation of low and moderate income housing. These housing assets referred to in the Resolutions included the County Children’s Shelter as more particularly described below.

### **County Children’s Shelter**

In 1994, the City loaned 1.5 Million dollars in LMIHF funds to the County of Santa Clara for the construction of the residential portions of the Santa Clara County Children’s Shelter (“City Loan”). A loan agreement and note were executed and an affordability restriction was recorded against the Shelter property in connection with the loan. In 1999, the City and County entered into a grant agreement under which \$800,000 in City funds from LMIHF bond proceeds were provided to the County to pay down a portion of the principal of the City Loan. The County is now in the process of selling the property and the City and County are renegotiating the terms of the loan.

### **ANALYSIS**

The Oversight Board has authority and/or duties with respect to former Agency assets other than housing assets. However, Health and Safety Code Section 34181(c) specifically provides that the Oversight Board shall direct the Successor Agency to “transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176”.

ABX1 26 allows the City to retain the housing functions and assets of the former redevelopment agency, however, the Legislation does not specifically define “housing assets”. Given the legal requirement under the CRL that funds deposited in the LMIHF be used solely for affordable housing purposes, the term “housing assets” must, at a minimum, include property and other interests (i.e. notes receivables or affordability restrictions) acquired with funds from the LMIHF. Since the loan to the County for the Children’s Shelter is a housing asset, the Oversight Board’s adoption of the resolution acknowledging this transfer will meet that requirement.

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**Subject: Transfer of Housing Assets**

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The proposed acknowledgement will allow the City to negotiate an agreement with the County allowing the County to remove affordability restrictions from the site and sell the property.

RICHARD DOYLE

City Attorney

By

A handwritten signature in cursive script, appearing to read "Pat A Deignan", written over a horizontal line.

PATRICIA A. DEIGNAN  
Chief Deputy City Attorney

For questions please contact Patricia A. Deignan, Chief Deputy City Attorney  
at 535-1201

Exhibit A

List of Housing Assets

**Loan and Grant**

Santa Clara County Children's Shelter	\$1,500,000
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This particular housing asset is a Construction/Permanent Loan and Grant for Affordable Housing evidenced by and including Loan and Grant Agreements, a Promissory Note, Affordability Restrictions and amendments thereto.