

# A G E N D A

SPECIAL  
Meeting of the  
**Successor Agency of the  
Scotts Valley Redevelopment Agency**

**Date: July 11, 2012**

**Time: 3:00 p.m.**

<b>SUCCESSOR AGENCY OF THE SCOTTS VALLEY REDEVELOPMENT AGENCY</b> 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5602	<b>MEETING LOCATION</b> Scotts Valley City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066
<b>OFFICIALS</b> Donna Lind, Chair Randy Johnson, Vice Chair Stephany E. Aguilar, Board Member Dene Bustichi, Board Member Jim Reed, Board Member	<b>POSTING</b> The agenda was posted 7-10-12 at City Hall, Scotts Valley Senior Center, Scotts Valley Library and on the Internet at <a href="http://www.scottsvalley.org">www.scottsvalley.org</a> .

**CALL TO ORDER**                      3:00 p.m.

## **ROLL CALL**

## **ALTERATIONS TO REGULAR AGENDA**

(Board can remove or add items to the Regular Agenda.)

## **REGULAR AGENDA**

(Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

1. Consideration of a request from the Santa Cruz County Auditor Controller for payment of a revised residual amount due for the January 2012 through June 2012 period

## **ADJOURNMENT**

The Successor Agency of the Scotts Valley Redevelopment Agency does not discriminate against persons with disabilities. The Scotts Valley City Council Chambers is an accessible facility. If you wish to attend a Board meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the Secretary's office at (831) 440-5602 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a Board meeting be available in an alternative format consistent with a specific disability, please call the Secretary's Office. The California State Relay Service (TDD to voice: 1-800-735-2929, voice to TDD: 1-800-735-2922), provides Telecommunications Devices for the Deaf and will provide a link between the TDD caller and users of telephone equipment.

**Successor Agency of the  
Scotts Valley Redevelopment Agency  
INTEROFFICE MEMORANDUM**

**DATE:** July 11, 2012

**TO:** Successor Agency Chair and Board of Directors

**FROM:** Kirsten Powell, Agency Counsel

**SUBJECT: CONSIDERATION OF A REQUEST FROM THE SANTA CRUZ COUNTY  
AUDITOR CONTROLLER FOR PAYMENT OF A REVISED RESIDUAL  
AMOUNT DUE FOR THE JANUARY 2012 THROUGH JUNE 2012 PERIOD**

**SUMMARY OF ISSUE**

On June 27, 2012, the Governor signed the redevelopment budget trailer bill AB 1484, which became effective immediately. AB 1484 substantially impacts many aspects of AB X1 26.

Among the various changes, AB 1484 adds Health and Safety Code Section 34183.5<sup>1</sup> and creates a new obligation regarding a "surplus" tax revenue payment. Because of delays caused by the Matosantos case, many county auditor-controllers did not make a distribution of property taxes on January 16, 2012 for the ROPS 1 period (January 1, 2012 through June 30, 2012). For such counties, this means that no surplus revenues were distributed to the taxing entities for the ROPS 1 period pursuant to subdivision 4 of the Section 34183(a) waterfall (i.e., the amount left over after payment of pass through obligations, the enforceable obligations, and the administrative cost allowance). To correct for this, AB 1484 directs that a corresponding deduction should have been made with respect to the June 1, 2012 distribution of property tax revenues for the ROPS 2 period (July 1, 2012 through December 31, 2012) to account for any unpaid surplus from the ROPS 1 period. (Section 34183.5(b).)

Because AB 1484 was not law at the time of June 1, 2012 distribution, many county auditor-controllers may not have made the deduction required by AB 1484. Therefore, if a county auditor-controller made the June 1st distribution without making the required deduction and the taxing entities are owed the surplus amount, AB 1484 directs the county auditor-controller to calculate the amount owed by the Successor Agency and to send the Successor Agency a demand for payment no later than July 9, 2012. (Section 34183.5(b)(2)(A).)

AB 1484 requires the Successor Agency to make a "surplus" payment to the county auditor-controller for distribution to the taxing entities by July 12, 2012 if the county auditor-controller sends the Successor Agency a demand letter by July 9, 2012. Failure to make the surplus payment by July 12th will subject the City and the Successor Agency to substantial civil penalties and other severe sanctions, including a suspension of the City's sales tax payment on July 18, 2012.

On July 10, 2012, the Scotts Valley Successor Agency received a demand letter for the amount of

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<sup>1</sup>All statutory references herein are to the Health and Safety Code, unless otherwise noted.

\$748,601.00. We believe this demand is in error. Based on advice from the County Auditor-Controller, the Successor Agency of the Scotts Valley Redevelopment Agency classified as "fund balance" the property tax distributions to the former redevelopment agency, which was paid in December of 2011. The Successor Agency did not classify the source of this distribution as the "Redevelopment Property Tax Trust Fund" because that fund did not exist until February 1, 2012. Because of this labeling error, DOF has deemed the funds distributed in December of 2011 to be "surplus."

Due to the very short time provided to the Successor Agency to make the surplus payment, and the severe penalties for late or non-payment, staff recommends that the Successor Agency make the payment on or before July 12, 2012, under protest and without waiver of any legal rights and remedies the Successor Agency has or may have to challenge the payment, the amount of the payment, or the legality of the payment.

### **Penalties for Successor Agency and City**

If a successor agency fails to pay the surplus amount demanded by the county auditor-controller on or before July 12, 2012, the DOF or any affected taxing entity may file a lawsuit seeking to compel the successor agency to make the payment immediately. The lawsuit has priority over all other civil matters, so the court may act very quickly. (Section 34183.5(b)(2)(C).)

Further, a non-paying successor agency will be subject to a civil penalty of 10% of the amount it owes to taxing entities plus 1.5% of the amount owed, imposed for each month the payment is late, and the successor agency shall not pay any obligations other than bond debt service until the payment is made. (Sections 34183.5(b)(2)(C); 34183.5(b)(2)(C).)

Although not entirely clear, it appears that the Successor Agency's subsequent property tax allocations for payment of enforceable obligations on its ROPS are also subject to set off until the surplus payment (and possibly any civil penalties imposed) are paid in full. (Section 34183.5(b)(3).) The DOF may request that a court waive some or all of the civil penalties if the DOF determines that imposition of the penalties will jeopardize the payment of enforceable obligations. (Section 34183.5(b)(2)(C).)

According to AB1484, the City will also be subject to the same civil penalty as the Successor Agency for late or non-payment of the surplus payment demanded. (Section 34183.5(b)(2)(C).) Because AB 1484 elsewhere recognizes that successor agencies are separate legal entities from the city, there may be arguments that this aspect of the penalty provision is unconstitutional.

In addition, the City shall not receive the sales and use taxes scheduled to be distributed to it on July 18, 2012, or thereafter. (Section 34183.5(b)(2)(C).) Sales and use taxes shall be withheld in the amount of the surplus payment demanded until such time as the demanded payment is made by the Successor Agency to the County Auditor-Controller. (Section 34183.5(b)(2)(C).)

A county auditor-controller who fails to comply with the July 9th deadline to demand the surplus payment from successor agencies may be subject to legal action and the employer county will face mandatory financial penalties. (Section 34183.5(b)(2)(B).)

**CONCLUSION**

It is recommended that the Successor Agency Board consider the matter, and provide direction to staff with respect to the County Auditor-Controller's demand for payment of "surplus" tax revenues in the amount of \$748,601. If approved there may need to be a clean-up of the ROPS spreadsheet to clarify the funding sources portion of the payment schedule and review/approval by the Oversight Board. Staff will discuss this further with the Department of Finance with the State and the local County Auditor Controller.

**FISCAL IMPACT**

The payment of \$748,601.00 would be made out of the former low-mod housing funds or also known as the 20% Set-aside fund. Although there is nothing specific in AB 1484, there is a significant risk that a city opting to make the surplus payment on behalf of a successor agency will not be entitled to reimbursement for that payment.

**STAFF RECOMMENDATION**

That the Agency Board of Directors consider authorizing, under protest, payment of "surplus" tax revenues pursuant to any demand as may be issued from the County Auditor-Controller pursuant to AB 1484, and provide direction to staff.

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# COUNTY OF SANTA CRUZ

**MARY JO WALKER, AUDITOR-CONTROLLER**  
701 OCEAN STREET, SUITE 100, SANTA CRUZ, CA 95060-4073  
(831) 454-2500 FAX (831) 454-2660

Edith Driscoll, Chief Deputy Auditor-Controller  
Pam Silbaugh, General Accounting Manager  
Mark Huett, Audit and Systems Manager  
Marianne Ellis, Property Tax Accounting Manager

Mark Hill, Program Manager  
California Department of Finance  
915 L Street  
Sacramento, CA 95814

*SENT VIA EMAIL*

July 6, 2012

**SUBJECT: EXHIBIT 12 ON THE DEPARTMENT OF FINANCE WEBSITE FOR THE  
COUNTY OF SANTA CRUZ**

Dear Mr. Hill,

The County of Santa Cruz is working through the mandatory reporting requirements for July 9 and July 12, pursuant to AB 1484. The instructions from the Department of Finance (DOF) require us to use Exhibit 12, posted on the DOF website. The problem is that the figures listed for the January-June ROPS are grossly inaccurate, and I respectfully request that DOF correct Exhibit 12 for four of the five Successor Agencies in Santa Cruz County.

We agree with the July-December ROPS figures. However, the January-June ROPS figures are wildly inaccurate, except for Capitola with which we agree. See the chart at the end of this letter.

I believe the problem is that it wasn't clear at the time the January-June ROPS were being finalized in March exactly how to classify the money that the RDAs received from the December/January property tax distribution. The Successor Agencies in Santa Cruz County classified this money as reserves or fund balance or something similar. We distributed property taxes in December, so the cash was already in the RDA's treasury on January 1. The Successor Agencies did not classify the December tax distribution as RPTTF because the RPTTF did not exist until February 1. Your staff did not understand this distinction when they developed Exhibit 12, and consequently are mistakenly reporting that very little or nothing was approved from the December prop tax distribution, which DOF is now calling RPTTF funds.

I have communicated this problem to the Department of Finance staff through a series of emails, and have been told to use the Exhibit 12 figures, correct or not. This is not the solution for Santa Cruz County. I respectfully request that DOF correct Exhibit 12 for four of the five Successor Agencies in Santa Cruz County.

## CITY OF WATSONVILLE REDEVELOPMENT AGENCY

One example is the City of Watsonville Successor Agency. DOF approved their January-June ROPS for \$1,806,591. This is entirely funded from their December prop tax distribution, which DOF is now calling RPTTF funds. Watsonville had \$1.2 million negative cash as of January 1, excluding the December tax distribution. Watsonville always borrowed from their City General

Fund until property taxes were distributed, and then would reimburse their General Fund at that time. But since AB X1 26 disallowed interagency loans, their City General Fund will not get reimbursed for that \$1.2 million “loan” to their RDA this past December. So their January-June ROPS must be funded entirely from the December RPTTF reserve because they have absolutely no other cash to fund it. Yet the DOF Exhibit 12 indicates \$0 from RPTTF reserve.

**SANTA CRUZ COUNTY REDEVELOPMENT AGENCY**

Exhibit 12 indicates that just \$250,000 was approved from the PRTTF reserve, just the minimum administrative allowance. It shows that \$208,333 of the administrative allowance was denied by DOF. This is not correct. The DOF did not deny any ROPS line items for this Successor Agency. More importantly, of the \$16,224,006 total approved January-June ROPS, \$11,818,170 is correctly funded from the December RPTTF reserve, with the remainder funded from bond proceeds, other revenues or true reserves from before the December tax distribution. Of the \$11,818,170 funded from the December RPTTF reserve, 97% was for bonded debt service.

**CITY OF SANTA CRUZ REDEVELOPMENT AGENCY**

Exhibit 12 indicates that just \$250,000 was approved from the PRTTF reserve, which is the administrative allowance. In fact, of the \$11,476,143 total approved January-June ROPS, \$4,750,759 is correctly funded from December RPTTF reserve, with the remainder funded from bond proceeds, other revenues or true reserves from before the December tax distribution. Of the \$4,750,759 funded from the December RPTTF reserve, 37% was for bonded debt service.

**CITY OF SCOTTS VALLEY REDEVELOPMENT AGENCY**

Exhibit 12 indicates that just \$90,000 was approved from the PRTTF reserve, which is the administrative allowance. In fact, of the \$1,005,837 requested for the January-June ROPS, the DOF denied \$150,000 and \$17,236 was funded from bond proceeds, leaving \$838,601 to be funded from December RPTTF reserve, of which 72% was for bonded debt service.

**CITY OF CAPITOLA REDEVELOPMENT AGENCY**

We agree with DOF’s Exhibit 12.

Please remember the DOF did not issue their ROPS format until March 15, and the direction at the time was that Successor Agencies could use whatever format they were using for the January-June ROPS, but should use the new format for the July-December ROPS. This is what our Successor Agencies did. Santa Cruz County was one of the few counties in the State which actually certified the ROPS by April 15, so we were well under way by March 15 when the DOF issued the ROPS format. In hindsight, I see this is a problem, but no one knew this until now. If we had known, I would have told the Successor Agencies to correct their ROPS.

Furthermore, the taxes were not RPTTF until February 1, so the taxes that were distributed in December were not RPTTF at the time. This was a source of great confusion throughout the state. DOF is now calling that December money RPTTF, and I understand why for simplicity sake, but in the January-March timeframe when the Successor Agencies were preparing their ROPS, no one was referring to the December tax distribution as RPTTF funds.

Some counties actually discouraged the use of "RPTTF" as a funding source on the January-June ROPS because it indicated that the Successor Agency needed more money than what was already distributed in December. So the funding source of RPTTF was definitely suspicious at that time.

Finally, the new "due diligence review" required by H&S Code §34179.5 requires County Auditor-Controllers to distribute the beginning unencumbered cash to the taxing entities very soon. The message that has been reinforced repeatedly since January is that Auditor-Controllers would not be required to distribute beginning unencumbered cash until the Agreed Upon Procedures report is done. H&S Code §34179.5 really buttons down that process and will result in solid figures. But DOF's requirement to use wildly incorrect RPTTF figures from Exhibit 12 would force us to distribute beginning unencumbered cash instead, before we even have a handle on the amounts.

I cannot use the Exhibit 12 figures. This process is seriously flawed for Santa Cruz County. And I have received communications from no less than eleven (mostly large) counties who have been communicating with your office about of similar problems with Exhibit 12.

I must use the figures that we reported on line 34 of the January-June RPTTF worksheet that we submitted to the DOF on June 11. It ties to the chart below. I have attached the January-June RPTTF worksheet that we submitted to DOF on June 11. I have also attached another Excel file in which we analyze in great detail each Successor Agency's ROPS, beginning on row 127. It would be greatly appreciated if DOF would correct our Exhibit 12 so we can be in compliance with your instructions. Nevertheless, I still have to use our June 11 figures. I am confident they are correct.

My office and all the Successor Agencies in Santa Cruz County have been good partners with the DOF. Our County has complied with all legislative deadlines including establishing and holding Oversight Boards meetings on a timely basis, approving and certifying the ROPS by April 15, conducting the Agreed Upon Procedures audit by July 1, and making passthroughs and all residual distributions related to both the January-June ROPS and the July-December ROPS by June 1. My office intends to work with our Successor Agencies to facilitate compliance with the new H&S Code §34179.5. The obvious downside of complying with ABX12 26 by the deadlines, with all of its flaws and ambiguities, is that we did not have the benefit of waiting for greater clarity, or learning from others mistakes. DOF's instructions to Successor Agencies regarding the January-June ROPS were late and unclear, and the Successor Agencies in Santa Cruz County should not be punished for it. Once again, the solution that has been offered, which is to use the wildly inaccurate Exhibit 12, will result in ridiculous and completely unrealistic outcomes for our Successor Agencies. The solution I offer is to correct Exhibit 12.

Regards,



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MARY JO WALKER  
Auditor-Controller

Attachments

cc: Ana Matosantos, Director, and Chris Hill, Program Analyst, California Department of Finance  
Successor Agencies for County of Santa Cruz, and Cities of Santa Cruz, Watsonville and Scotts Valley



# COUNTY OF SANTA CRUZ

**MARY JO WALKER, AUDITOR-CONTROLLER**  
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Edith Driscoll, Chief Deputy Auditor-Controller  
Pam Silbaugh, General Accounting Manager  
Mark Huett, Audit and Systems Manager  
Marianne Ellis, Property Tax Accounting Manager

## SENT VIA EMAIL

July 9, 2012

Steve Ando, City Manager  
Successor Agency of the City of Scotts Valley Redevelopment Agency  
City of Scotts Valley  
One Civic Center Drive  
Scotts Valley, CA 95066

## **SUBJECT: REVISED RESIDUAL AMOUNT DUE FOR THE JANUARY 2012 THROUGH JUNE 2012 PERIOD**

Dear Steve:

Pursuant to Health and Safety §34183.5(b), county auditor-controllers are required to notify each successor agency no later than July 9, 2012, of the “residual” amount it owes to affected taxing entities as defined in Health and Safety §34183(a)(4) for the period covering the January 2012 to June 2012 ROPS, after payment of passthroughs, enforceable obligations and agency administrative costs that were approved by the Department of Finance (DOF). For purposes of determining the total amount of RPTTF that a successor agency was approved to expend for the January 2012 to June 2012 period, county auditor-controllers are required to use the amounts shown in Column E of the Exhibit 12 document on the DOF webpage, and have been instructed that these amounts must be considered final determinations as provided in AB 1484.

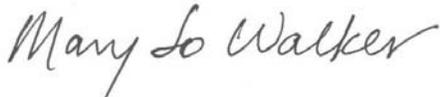
**REVISED RESIDUAL AMOUNT DUE:           \$748,601**

You will recall that on June 1, 2012, most county auditor-controllers went through this same process to “true up” and distribute the residual from the January 2012 to June 2012 timeframe. However, at that time auditor-controllers had not been instructed to use the DOF’s Exhibit 12, as it was still under construction. Instead, my office used the amounts from the January through June ROPS as we understood them, and as confirmed by each Successor Agency in late May. Based on that original analysis, we determined that your Successor Agency’s original residual was \$538,059. Based on the revised analysis using the DOF’s instructions, the residual is \$1,286,660. The difference is \$748,601. Although we believe the original amount is still the correct analysis, auditor-controllers are required to follow the DOF’s instructions at this time, under threat of severe repercussions. This revised residual amount due may change if the DOF changes Exhibit 12.

Included in the email which transmits this letter is a spreadsheet showing your Successor Agency's revised residual "true up", and the amount which is now due reflected in column G.

I regret to inform you that this amount is due July 12, 2012. Please refer to §34183.5(b) for further information.

Regards,



MARY JO WALKER  
Auditor-Controller

Attachments

cc: Corrie Kates  
Laurie Grundy

**County of SANTA CRUZ**  
**Redevelopment Property Tax Trust Fund Allocations for January 2012-June 2012 ROPS**  
**(Whole Numbers)**

Redevelopment Property Tax Trust Fund (RPTTF) Activity	<b>REVISED</b>	ORIGINAL	DIFFERENCE
	CITY OF SCOTT'S VALLEY REDEVELOPMENT AGENCY	CITY OF SCOTT'S VALLEY REDEVELOPMENT AGENCY	
<b>RPTTF Beginning Balance (Must be \$0 in all cases)</b>	0	0	0
<b>Deposits:</b>			
Secured & Unsecured Property Tax Increment	2,468,424	2,468,424	-
Supplemental & Unitary Property Tax Increment	19,066	19,066	-
<b>Deposit totals</b>	<b>2,487,490</b>	<b>2,487,490</b>	<b>-</b>
<b>Available Property Tax Increment Balance</b>	<b>2,487,490</b>	<b>2,487,490</b>	<b>-</b>
<b>H&amp;S Code 34183 Distributions - Should include payments made either by the former RDA/successor agency or the auditor-controller</b>			
Administrative Fees to County Auditor-Controller			
SB2557 Administration Fees			
ERAF Passthrough Payments			
City Passthrough Payments			
County Passthrough Payments	580,924	580,924	-
Special District Passthrough Payments	477,233	477,233	-
K-12 School Passthrough Payments - Tax Portion			
K-12 School Passthrough Payments - Facilities Portion			
Community College Passthrough Payments - Tax Portion			
Community College Passthrough Payments - Facilities Portion	36,800	36,800	-
County Office of Education - Tax Portion			
County Office of Education - Facilities Portion	15,873	15,873	-
ROPS Enforceable Obligations Payable from Property Taxes (Includes Successor Agency Administrative Budget). <b>To avoid double-counting, these amounts should not include any passthrough payments that are already listed above</b>	90,000	838,601	(748,601)
SCO Invoices for Audit and Oversight			
<b>H&amp;S Code 34183 Dist Totals</b>	<b>1,200,830</b>	<b>1,949,431</b>	<b>(748,601)</b>
<b>Residual Balance</b>	<b>1,286,660</b>	<b>538,059</b>	<b>748,601</b>
<b>HSC section 34183 (a) (4) Residual Distributions</b>			
<b>RESIDUAL PAYMENT DISTRIBUTED PRIOR TO JULY 9</b>	<b>538,059</b>		
Residual Balance to Cities	60,510	43,492	60,510
Residual Balance to Counties			-
Residual Balance to Special Districts	52,455	37,702	52,455
Residual Balance to K-12 Schools	518,799	372,888	518,799
Residual Balance to Community Colleges	63,579	45,698	63,579
County Office of Education	27,423	19,710	27,423
ERAF	25,835	18,569	25,835
	<b>1,286,660</b>	<b>538,059</b>	<b>748,601</b>
<b>Ending RPTTF Balance (MUST be \$0 in all cases)</b>	<b>0</b>	<b>0</b>	<b>0</b>

DOES NOT REFLECT PASSTHROUGHS  
 PAID BY THE FORMER RDA