

OROVILLE REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

April 2013



JOHN CHIANG
California State Controller

April 23, 2013

Peter Cosentini, Interim City Administrator
Oroville Redevelopment/Successor Agency
1735 Montgomery Street
Oroville, CA 95965-4897

Dear Mr. Cosentini:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office reviewed all asset transfers made by the Oroville Redevelopment Agency to the City of Oroville or any other public agency after January 1, 2011. This statutory provision states, "The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in furtherance of the Community Redevelopment Law and is thereby unauthorized." Therefore, our review included an assessment of whether each asset transfer was allowable and whether it should be turned over to the Oroville Redevelopment Successor Agency.

Our review applied to all assets including but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payment of any kind. We also reviewed and determined whether any unallowable transfers of assets to the City of Oroville or any other public agencies have been reversed.

Our review found that the Oroville Redevelopment Agency transferred \$20,722,812 in assets, which included unallowable transfers of assets totaling \$1,852,500, or 8.94%, that must be turned over to the Successor Agency.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Diana MacMillian, Fiance Director
Oroville Redevelopment/Successor Agency
City of Oroville
Gordon Andoe, Chairperson of the Oversight Board
Oroville Redevelopment/Successor Agency
City of Oroville
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Oroville Redevelopment Agency after January 1, 2011. Our review included, but was not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payments of any kind from any source.

Our Review found that the Oroville Redevelopment Agency transferred \$20,722,812 in assets, which included unallowable transfers of assets totaling \$1,852,500, or 8.94%, that must be turned over to the Successor Agency.

Background

In January of 2011, the Governor of the State of California proposed statewide elimination of redevelopment agencies (RDAs) beginning with the fiscal year (FY) 2011-12 State budget. The Governor's proposal was incorporated into Assembly Bill 26 (ABX1 26, Chapter 5, Statutes of 2011, First Extraordinary Session), which was passed by the Legislature, and signed into law by the Governor on June 28, 2011.

ABX1 26 prohibited RDAs from engaging in new business, established mechanisms and timelines for dissolution of the RDAs, and created RDA Successor Agencies to oversee dissolution of the RDAs and redistribution of RDA assets.

A California Supreme Court decision on December 28, 2011 (*California Redevelopment Association et al. v. Matosantos*), upheld ABX1 26 and the Legislature's constitutional authority to dissolve the RDAs.

ABX1 26 was codified in the Health and Safety Code (H&S Code) beginning with section 34161.

In accordance with the requirements of H&S Code section 34167.5, the State Controller is required to review the activities of redevelopment agencies (RDAs), "to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency, or any other public agency, and the redevelopment agency," and the date on which the RDA ceases to operate, or January 31, 2012, whichever is earlier.

The SCO has identified transfers of assets that occurred after January 1, 2011, between the Oroville Agency RDA, the City of Oroville, and/or other public agencies. By law, the SCO is required to order that such assets, except those that already had been committed to a third party prior to June 28, 2011, the effective date of ABX1 26, be turned over to the Successor Agency. In addition, the SCO may file a legal order to ensure compliance with this order.

Objectives, Scope, and Methodology

Our review objective was to determine whether asset transfers that occurred after January 1, 2011, and the date upon which the RDA ceased to operate, or January 31, 2012, whichever was earlier, between the city or county, or city and county that created an RDA, or any other public agency, and the RDA, were appropriate.

We performed the following procedures:

- Interviewed Successor Agency personnel to gain an understanding of the Successor Agency operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the Oroville City Council and the RDA.
- Reviewed accounting records relating to the recording of assets.
- Verified the accuracy of the Asset Transfer Assessment Form. This form was sent to all former RDAs to provide a list of all assets transferred between January 1, 2011, and January 31, 2012.
- Reviewed applicable financial reports to verify assets (capital, cash, property, etc.).

Conclusion

Our review found that the Oroville RDA transferred \$20,722,812 in assets, after January 1, 2011, including unallowable transfers of assets totaling \$1,852,500, or 8.94% of the transferred assets. Those assets must be turned over to the Successor Agency for disposition in accordance with ABX1 26.

Details of our findings and Orders of the Controller are in the Findings and Orders of the Controller section of this report.

Views of Responsible Officials

We issued a draft review report on March 13, 2013. Scott E. Huber, Cota Cole LLP, responded by letter dated March 29, 2013, disagreeing with the review results. The City of Oroville and Oroville's Successor Agency response is included in this final review report as an attachment.

Restricted Use

This report is solely for the information and use of the City of Oroville, the Successor Agency, the Successor Agency Oversight Board, the Successor Housing Agency, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

April 23, 2013

Finding and Order of the Controller

FINDING 1— Unallowable asset transfers to the City of Oroville

The Oroville Redevelopment Agency (RDA) made unallowable asset transfers of \$1,852,500 to the City of Oroville (City). The asset transfers to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011. Those assets consisted of current and capital assets.

Unallowable asset transfers were as follows:

- On January 30, 2012, the RDA transferred a loan repayment of \$1,800,000 in cash to the City. The transfer was approved by the City Council Members/Commissioners on January 30, 2012, during a special joint meeting between the Oroville City Council and the Oroville Redevelopment Agency. Based on Health and Safety (H&S) Code section 34162(a)(3), the RDA was not allowed to refund, restructure, or refinance indebtedness or obligations that existed as of January 1, 2011.
- On January 30, 2012, the RDA transferred a loan interest payment of \$52,500 in cash to the City pursuant to the loan agreement between the City and the RDA under City Resolution No. 4975. Based on H&S Code section 34162(a)(3), the RDA was not allowed to repay loan agreements entered into between the RDA and the City.

Pursuant to H&S Code section 34167.5, any asset transfers by the RDA to a city, county, city and county, or any other public agency after January 1, 2011, must be returned to the Successor Agency for disposition in accordance with H&S Code sections 34177(d) and (e).

Order of the Controller

Based on H&S Code section 34167.5, the City of Oroville is ordered to reverse the transfer of assets described in Schedule 1, in the amount of \$1,852,500, and turn the assets over to the Successor Agency. The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e).

City of Oroville's and Oroville Successor Agency's Response

The City and the Successor Agency disagree with the SCO finding. (See Attachment 1).

SCO's Response

The State Controller's Office (SCO) understands the difficult issues that the Successor Agencies are required to address due to the retroactive requirements of ABX1 26. Although ABX1 26 was signed into law on June 28, 2011, the bill states that the SCO shall order the return of any asset transferred after January 1, 2011, to the Successor Agency.

The SCO agrees that the amendments in AB 1484 regarding loan agreements between the City and the RDA may become enforceable obligations if approved by the Oversight Board and the Department of Finance (DOF); however, the Oversight Board and the DOF have not approved the repayment of the City loans.

During the course of this review, the nature of the City loan repayments were unallowable; therefore, the finding is unchanged.

**Schedule 1—
RDA Assets Transferred to
the City of Oroville
January 1, 2011, through January 31, 2012**

Unallowable Transfers to the City of Oroville

Current Assets

Cash Transfer to City	\$ 1,852,500
Total Unallowable Transfers-City	<u>\$ 1,852,500</u> ¹

¹ See the Finding and Order of the Controller section.

**Attachment—
Auditee's Response to
Draft Review Report**



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REPLY TO:
☒ ROSEVILLE
☐ MADERA
☐ ONTARIO

March 29, 2013

VIA EMAIL (SMAR@SCO.CA.GOV) AND
CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office – Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: *City of Oroville's and Oroville Successor Agency's Comments to State
Controller's Office Draft Asset Transfer Review Report*

Dear Mr. Mar:

Our office serves as the City Attorneys for the City of Oroville, California ("City"), and as agency counsel for the Oroville Successor Agency ("Successor Agency") to the former Oroville Redevelopment Agency ("RDA"). The City is a duly incorporated California charter city, the Successor Agency is a separate public agency, and the former RDA was a duly organized and existing redevelopment agency under the Community Redevelopment Law, Health and Safety Code section 33000 *et seq.* ("CRL").

This letter serves to provide the legal grounds for compliance with Assembly Bill 26 from the 2011-12 First Extraordinary Session of the California Legislature ("ABx1 26") and Assembly Bill 1484 from the 2011-12 Regular Session of the California Legislature ("AB 1484"), in addition to other relevant laws, and is provided in response to the State Controller's Office Draft Asset Transfer Review Report dated March 13, 2013, which was received by the City on March 22, 2013, regarding the amounts repaid by the RDA to the City pursuant to the Loan/Cooperation Agreement by and between the City and RDA entered into October 19, 1987 (the "Initial Loan/Cooperation Agreement"), and later implemented by the subsequent loan agreement dated February 7, 1995 ("Subsequent Loan Agreement"; collectively, the "Loan Agreements"). This response does not waive the right of the City, or the Successor Agency, to later provide additional information or statements as part of the review process. The City and the Successor Agency retain and reserve the right to raise new materials or positions as required in the review process or in any subsequent proceeding.

{SEH/00023285 3 }

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A. Factual Background Regarding the RDA and Loan/Cooperation Agreement

Pursuant to Health and Safety Code sections 33100 and 33101, the RDA was "activated" and enabled to exercise powers under the CRL on January 5, 1981, by City Council Resolution No. 3621. The City, through the initial Loan/Cooperation Agreement and Subsequent Loan Agreement, authorized and loaned general fund moneys for capital improvement projects and property acquisition to the RDA to provide "seed money" and funding in furtherance of implementing redevelopment and housing programs and projects. This agreement was not only expressly authorized, but encouraged by California law, including Health and Safety Code sections 33220, 33600, 33601 and 33610 and Government Code section 53600 *et seq.*¹ Once the Loan/Cooperation Agreement was approved and entered into, it was a valid, binding, executory contract that evidenced indebtedness of the RDA entitled to repayment with the RDA's tax increment under California law. (See Cal. Const., art. XVI, § 16; Health & Saf. Code, §§ 33670, 33675 [tax increment provisions]; *Marek v. Napa Community Redevelopment Agency* (1988) 46 Cal.3d 1070, 1087 ["We conclude that 'indebtedness,' as it is used in article XVI, section 16 and sections 33670 and 33675, includes redevelopment agencies' executory financial obligations under redevelopment contracts. Such indebtedness entitles those agencies to payment of

¹ Health and Safety Code section 33220 provides, in pertinent part:

"For the purpose of aiding and co-operating in the planning, undertaking, construction, or operation of redevelopment projects located within the area in which it is authorized to act, any public body, upon the terms and with or without consideration as it determines, may: [¶¶]

"(e) Enter into agreements with the federal government, an agency, or any other public body respecting action to be taken pursuant to any of the powers granted by this part or any other law; such agreements may extend over any period, notwithstanding any law to the contrary."

Health and Safety Code section 33600 provides:

"An agency may accept financial or other assistance from any public or private source, for the agency's activities, powers, and duties, and expend any funds so received for any of the purposes of this part [the CRL]."

Health and Safety Code section 33601 provides, in pertinent part:

"An agency may borrow money or accept financial or other assistance from the state or the federal government or any other public agency for any redevelopment project within its area of operation, and may comply with any conditions of such loan or grant."

Health and Safety Code section 33610 provides, in pertinent part:

"At any time after the agency created for any community becomes authorized to transact business and exercise its powers, the legislative body of the community may appropriate to the agency such amounts as the legislative body deems necessary for the administrative expenses and overhead of the agency. The money appropriated may be paid to the agency as a grant to defray the expenses and overhead, or as a loan to be repaid upon such terms and conditions as the legislative body may provide."

Government Code section 53601 provides, in pertinent part:

"The legislative body of a local agency having moneys in a sinking fund or moneys in its treasury not required for the immediate needs of the local agency may invest any portion of the moneys that it deems wise or expedient in those investments set forth below. [¶¶]

"(e) Bonds, notes, warrants, or other evidences of indebtedness of a local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency."

available tax increment revenues by the local county auditor..."].² Applicable statutes and controlling case precedent required this contract be honored as indebtedness of the RDA with repayment from tax increment because the contract was executed between two separate public agencies – even if the governing board of a redevelopment agency was the same as the host jurisdiction. (*Ibid.*; see also Health & Saf. Code, § 33100; and 25 Ops.Cal.Atty.Gen. 67 [expressly allowing city council to serve as board of directors for redevelopment agency]; *Pacific States Enterprises, Inc. v. City of Coachella* (1993) 13 Cal.App.4th 1414, 1424 ["Well-established and well-recognized case law holds that the mere fact that the same body of officers acts as the legislative body of two different governmental entities does not mean that the two different governmental entities are, in actuality, one and the same..."].)

Additionally, the CRL (Health and Safety Code section 33445) expressly authorized the RDA to pay for real property and costs of publicly owned improvements, including those contracted for by the City. For publicly owned improvements funded under section 33445, the legislative body's findings concerning the necessity of tax increment funding for the specified improvements were "final and conclusive" by law.³

Under these laws, as of the date of payoff in January 2012, the City ultimately had a total of \$1,852,500 outstanding on the loans, including interest. The Loan Agreement provided that "[t]he AGENCY shall repay CITY at such times as funds become available to AGENCY for repayment." (**Exhibit 1**, Agreement No. 87-890, § 3, dated October 19, 1987.) Thus, with the

² Redevelopment agencies could not levy taxes. Instead, they relied on "tax increment financing," a funding method authorized by Article XVI, section 16, of the state Constitution, and Health and Safety Code section 33670. (*City of Dinuba v. County of Tulare* (2007) 41 Cal.4th 859, 866.) Under the tax increment method of financing, those public entities entitled to receive property tax revenue in a redevelopment project area (cities, counties, special districts, and school districts) are allocated a portion based on the assessed value of the property prior to the effective date of the redevelopment plan, while tax revenue in excess of that amount – the "tax increment" created by the increased value of project area property – is (or was) allocated to the redevelopment agency for repayment of debt incurred to finance the project. (Cal. Const., Art. XVI § 16, subd. (a) & (b); Health & Saf. Code § 33670(a) & (b); *City of Dinuba*, 41 Cal.4th at 866.)

³ Health and Safety Code section 33445 provides in pertinent part:

"(a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is located inside or contiguous to the project area, if the legislative body determines all of the following:

"(1) That the acquisition of land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of benefit to the project area by helping to eliminate blight within the project area or providing housing for low- or moderate-income persons.

"(2) That no other reasonable means of financing the acquisition of the land or installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community.

"(3) That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the implementation plan adopted pursuant to Section 33490.

"(b)(1) The determinations made by the agency and the local legislative body pursuant to subdivision (a) shall be final and conclusive."

anticipated termination of RDAs under the Governor's proposals, it was entirely consistent with the terms and conditions of the loan that it be paid off prior to the termination of RDAs, which termination has the effect of terminating the life of the Plans.

On March 2, 2011, the RDA Board and City Council authorized repayment of the loan and directed that repayment occur "no later than June 30, 2011." (See **Exhibit 2**, Minutes of March 2, 2011, Joint Meeting of the City Council and RDA Board, Item No. 1.) Following the implementation of Assembly Bill 27 from the 2011-12 First Extraordinary Session of the California Legislature ("ABx1 27"), on August 2, 2011, the RDA Board and the City Council elected to make a continuation payment to avoid the elimination of the Oroville RDA. (See **Exhibit 3**, Minutes of August 2, 2011, City Council Meeting, Item No. 6; **Exhibit 4**, Minutes of August 2, 2011, RDA Meeting, Item No. 2.) Ultimately, on January 30, 2012, the City Council demanded repayment of the loan, and the RDA Board agreed to repay the loan, no later than January 31, 2012 pursuant to the Loan Agreements. (See **Exhibit 5**, Minutes of January 30, 2012, Special Joint Meeting of the City Council and RDA Board, Item No. 1.) The loan was repaid pursuant to the Loan Agreements on January 30, 2012. With the repayment of the Loan Agreements, the RDA's indebtedness to the City had been fully repaid, and the executory contractual obligations were fully performed.

B. Legal Analysis

The Loan Agreements evidenced a valid and now fully performed indebtedness of the RDA which was repaid prior to the existence of the Successor Agency from cash on hand, and did not require any utilization of tax increment funds. Accordingly, the repayment of the City loan is fully enforceable.

1. The Loan/Cooperation Agreements Are Enforceable Obligations Under Applicable Redevelopment Law and Under Applicable Provisions in ABx1 26 and AB 1484

At the time the RDA fully repaid the City according to the terms and conditions in the Loan Agreements there were enforceable contracts committing repayment of dedicated tax increment funds pursuant to controlling constitutional, statutory, and case authority, as discussed above. (See Cal. Const., art. XVI, § 16; Health & Saf. Code, §§ 33670, 33675; *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231 ("CRA"), 53 Cal.4th at 245-248; *City of Dinuba, supra*, 41 Cal.4th at p. 866; *Marek, supra*, 46 Cal.3d at p. 1087; and *Pacific States Enterprises, supra*, 13 Cal.App.4th at p. 1424.)

ABx1 26 was signed by the Governor the evening of June 28, 2011. The provisions that took effect immediately were in Part 1.8 of Division 24 of the Health and Safety Code ("Part 1.8"), commonly referred to as the "suspension" provisions. As the name implies, Part 1.8 suspended the powers and authorities of all redevelopment agencies, including the ability to adopt new redevelopment plans or plan amendments, issue new bonded indebtedness, and enter into new contracts or incur new obligations. (Health & Saf. Code, §§ 34162(a), 34163(a)&(b), 34164(a).)

Contrastingly, Part 1.8 clearly provides that, even after the suspension provisions took effect, "[n]othing in this part shall be construed to interfere with a redevelopment agency's authority, pursuant to enforceable obligations *as defined in this chapter* [of Part 1.8], to (1) make payments due, (2) enforcing existing covenants and obligations, or (3) perform its obligations." (Health & Saf. Code, § 34167(f), emphasis added.) Part 1.8 defined "enforceable obligations" as follows:

"For purposes of this part, 'enforceable obligation' means any of the following: [¶]

"(2) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, including, but not limited to, moneys borrowed from the Low and Moderate Income Housing Fund, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms. [¶¶]

"(5) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy." (Health & Saf. Code, § 34167(d).)

As discussed above, the CRL and public policy not only authorized but encouraged agreements between the RDA and City to fund redevelopment agency projects and programs. Because the Loan/Cooperation Agreements fit within the definition of "enforceable obligation" under the suspension provisions (Part 1.8) of ABx1 26, the RDA would have been able to repay the loan until such date as the RDA no longer existed and no longer could perform existing enforceable obligations, i.e., until February 1, 2012.⁴

This analysis is consistent with the conclusion reached by the State Controller's Office ("SCO") in connection with at least one Asset Transfer Review completed under Health and Safety Code section 34167.5.⁵ In its Review Report of the Milpitas Redevelopment Agency

⁴ Under the California Supreme Court's decision in *CRA*, the operative date for Part 1.85, including the date of dissolution for all redevelopment agencies, was delayed four months from the date set forth in ABx1 26. Thus, the date changed from October 1, 2011, to February 1, 2012. (See Stats. 2011-12, 1st Ex. Sess., ch. 5 (AB 26), § 7 [adding section 34170(a) of the Health and Safety Code to read: "Unless otherwise specified, all provisions of this part shall become operative on October 1, 2011..."]; *CRA*, *supra*, 53 Cal.4th at pp. 274-276.)

⁵ Health and Safety Code section 34167.5, sometimes referred to as the "claw back" provision from ABx1 26, provides in pertinent part:

"Commencing on the effective date of the act adding this part [June 28, 2011], the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011 [now February 1, 2012], to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170)."

("Milpitas Report"), covering a review of asset transfers from January 1, 2011, through January 31, 2012, the SCO does not include as an "unallowable transfer" a \$3.6 million repayment by the Milpitas Redevelopment Agency to the City of Milpitas made in January 2012 pursuant to the terms and conditions of a 2004 city/redevelopment agency loan agreement.⁶

Of even more importance, however, for purposes of the Loan/Cooperation Agreements here, Part 1.85 of Division 24 of the Health and Safety Code ("Part 1.85"), commonly known as the "dissolution" provisions from ABx1 26, has a *different* definition for "enforceable obligation." In that part, the definition of enforceable obligation has the following "carve-outs":

(2) For purposes of this part, "enforceable obligation" does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency.... Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations.

(3) Contracts or agreements between the former redevelopment agency and other public agencies, to perform services or provide funding for governmental or private services or capital projects outside of redevelopment project areas that do not provide benefit to the redevelopment project and thus were not properly authorized under Part 1 (commencing with Section 33000) shall be deemed void on the effective date of this part[.]

(Health & Saf. Code § 34171(d)(2) & (3).)⁷ The dissolution provisions in ABx1 26, with the reformation of deadlines by the CRA case, became operative on February 1, 2012.

Under well-settled principles of statutory construction, the plain meaning of the two different definitions of "enforceable obligation" controls. (*Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 888 ["If the statutory language is unambiguous, we presume the Legislature meant what it said, and the plain meaning of the statute controls. [Citation.] We consider extrinsic aids, such as legislative history, only if the statutory language is reasonably subject to multiple interpretations..."]; *Halbert's Lumber, Inc. v. Lucky Stores* (1992) 6 Cal.App.4th 1233, 1238-39 ["If the meaning is without ambiguity, doubt, or uncertainty, then the language controls.... There is nothing to 'interpret' or 'construe'..."].) It is readily apparent

⁶ According to legal counsel for the City of Milpitas/Milpitas Successor Agency, the conclusion reached by the SCO is drawn by negative implication. On page 2 of the Milpitas Report, the SCO identifies a total \$175,613,510 in asset transfers, of which the SCO claims \$147,108,600 as "unallowable" transfers. Attachment 1 in the Milpitas Report does not identify, as an "unallowable" transfer, the \$3.6 million repayment. (The Milpitas Report can be accessed at the SCO's Website at www.sco.ca.gov/aud_rda_asset_transfer_reviews.html.)

⁷ Neither definition of "enforceable obligation" in Part 1.8 nor Part 1.85 was amended by AB 1484.

there are two different definitions of "enforceable obligations" which the Legislature viewed as not being enforceable, e.g., only those city/agency agreements remaining in existence after February 1, 2012.

Even if there were some ambiguity, general principles of statutory construction still lead to the same conclusion. "It is a settled rule of statutory construction that where a statute, with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different legislative intent existed with reference to the different statutes." (*Los Angeles County Metropolitan Transp. Authority v. Alameda Produce Market, LLC* (2011) 52 Cal.4th 1100, 1108; *In re Jennings* (2004) 34 Cal.4th 254, 273.) A similar "cardinal rule" of statutory construction is that courts may not add provisions to a statute that do not exist. (*Los Angeles County MTA, supra*, 52 Cal.4th at pp. 1108-09.) Had the Legislature intended city/agency agreements to be unenforceable during the "freeze" of redevelopment agencies or prior thereto, the Legislature would have expressly said so – just as it *did* in Part 1.85. (*Ibid.*)

Moreover, Health and Safety Code section 34179.5(b)(2) defines "enforceable obligation" as follows:

"'Enforceable obligation' includes any of the items listed in subdivision (d) of Section 34171, contracts detailing specific work to be performed that were entered into by the former redevelopment agency prior to June 28, 2011, with a third party that is other than the city, county, or city and county that created the former redevelopment agency, and indebtedness obligations as defined in subdivision (e) of Section 34171."

That section addresses three types of contracts: (1) items pursuant to section 34171(d); (2) contracts dealing with specific work to be performed; and (3) indebtedness obligations as defined in section 34171 (e). Based upon basic statutory construction principles,⁸ the phrase "with a party that is other than the city" is not intended to modify any type of contract other than those dealing with specific works – the second category. If the Legislature wanted to impose that limitation on the other two categories of enforceable obligations, it would have done so expressly. The fact that it did not implies the Legislature did not intend to so limit category (1) or (3).

The Loan/Cooperation Agreements are expressly covered by Health and Safety Code section 34171(d). Specifically, subdivision (d)(1)(B) covers loans of moneys borrowed by the RDA for a lawful purpose to the extent they are required to be paid back. Thus, the Loan/Cooperation Agreements are squarely in the first category of enforceable obligations above.

⁸ *People v. Corey* (1978) 21 Cal.3d 738, 743 ("It is a general rule of statutory construction, however, that 'modifying phrases are to be applied to the words immediately preceding them and are not to be construed as extending to more remote phrases'..."), overturned on other grounds.

As a result, the loans made pursuant to the Loan/Cooperation Agreements are enforceable by the very statutory language of ABxl 26 and AB 1484, as the Loan/Cooperation Agreements falls under the definition of "enforceable obligation."

2. Funds to Pay the City Loans Are Not "Transferred" Assets for Purposes of the Due Diligence Review

AB 1484 established a due diligence review ("DDR") process "[i]n furtherance of subdivision (d) of Section 34177" of the Health and Safety Code. (See Health & Saf. Code, §§ 34179.5, 34179.6.) Section 34177(d) provides, in pertinent part, that successor agencies are required to:

"Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency."

The DDR is intended to determine "the *unobligated* balances" of "cash or cash equivalents" previously held by the redevelopment agency prior to dissolution available for distribution to the taxing entities. (Health & Saf. Code, § 34179.5(a), emphasis added.) As part of that determination, AB 1484 has a very specific definition of "transferred" that is to be applied when an accountant or auditor, performing the DDR, is to determine whether any specific assets, cash, or cash equivalents should be included in the calculation of funds available for remittance to the taxing entities. (See Health & Saf. Code, §§ 34179.5(c)(1)-(6), 34179.6(c).) "Transferred," for purposes of the DDR, means:

"[T]he transmission of money to another party that is not in payment for goods or services or an investment or where the payment is de minimis. Transfer also means where the payments are ultimately merely a restriction on the use of the money." (Health & Saf. Code, § 34179.5(b)(3).)

Here, the repayments under the Loan/Cooperation Agreements to the City were payments for goods and services, and an investment the City made in the various publicly owned improvements, housing and other projects in the redevelopment project area and outside the project area pursuant to Health and Safety Code section 33334.2(g)(1). Moreover, the RDA did not transfer funds to the City "merely" to restrict the use of otherwise unencumbered tax increment funds. Rather, the RDA repaid a debt it owed to the City with funds that, under Article XVI, section 16, of the California Constitution, as well as the CRL, were encumbered to repay an indebtedness of the RDA. (*Marek, supra*, 46 Cal.3d at p. 1087; *Pacific States Enterprises, supra*, 13 Cal.App.4th at p. 1424.)

In summary, the repayment by the RDA of a debt owed is not an asset that was "transferred" for purposes of the DDR. (Health & Saf. Code, § 34179.5(b)(3).) Therefore, the

repayment of the Loan/Cooperation Agreement in January 2012 is enforceable and should be recognized as such under ABx1 26 and AB 1484.

3. Use of the City's Property Tax and Sales and Use Tax Revenues Are Constitutionally Protected

Aside from the enforceability of the Loan/Cooperation Agreements under the language in ABx1 26 and AB 1484, constitutional provisions require that the repayment by the RDA of City funds be honored notwithstanding the Legislature's enactment of these two bills.

With the adoption by the voters of Proposition 1A in 2004, certain provision in Article XIII, section 25.5, of the California Constitution were added to ensure that the percentage allocation of sales and use taxes and ad valorem property taxes to local taxing agencies were not decreased from the percentages established in November 2004. Those constitutional requirements are, in pertinent part:

"(a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:

"(1)(A) ... modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. [¶¶]

"(2)(A) ... restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. [¶¶]

"(3) ... change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring.' (Cal. Const., art. XIII, § 25.5.)

Additionally, in 2010, the voters approved Proposition 22 which, among other provisions, amended Article XIII, section 24, of the California Constitution to add subdivision (b), which reads:

"The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purpose."

Relevant to the Loan/Cooperation Agreements here, the City's general fund is comprised of sales and use tax revenue and ad valorem property tax revenue, portions of which are specifically dedicated for the City. Thus, on both the "front" and "back" ends of the transactions consummated by the Loan/Cooperation Agreements – the "front" end being the City's loaning of funds from the general fund and the "back" end being the City's deposit of tax increment funds into its general fund as a repayment of those originally loaned general funds – the Legislature may not change the City's percentage allocation of these tax revenues. No authority exists under Article XIII, sections 24(b) and 25.5(a)(2) to reallocate sales and use tax revenue allocations of the City here, and no ability exists under Article XIII, section 25.5(a)(1) and (a)(3) because neither ABx1 26 nor AB 1484 passed with a two-thirds majority.

If a state agency were to require the City to turn over amounts equal to the repayments of the City loans, the state essentially would be ordering a reallocation of the City's sale and use/property taxes to other taxing entities. Such an order appears to violate Article XIII, sections 24(b) and 25.5(a)(1), (a)(2) and (a)(3). Indeed, the constitutionality of ABx1 26 under Proposition 1A is now under review in the California's Third District Court of Appeal, and the constitutionality of AB 1484 under Proposition 1A and Proposition 22 (to the extent it added subdivision (b) to Article XIII, section 24) is also the subject of numerous lawsuits recently filed in the Sacramento County Superior Court.

Therefore, it is reasonably possible that the constitutional limits would prevent the repaid City general funds from being reallocated by fiat from the SCO or California Department of Finance ("DOF"), notwithstanding any language in ABx1 26 or AB 1484 that would appear to authorize such reallocation.

4. The City Is a Charter City, and as Such, the Legislature May Not Infringe Upon the City's Municipal Affairs, Which Includes Control Over Its Own Funds

Interference with the repayment to the City of the Loan/Cooperation Agreements violates another provision of the State Constitution. Article XI, section 5, provides in pertinent part that any city may adopt a charter so that its ordinances and regulations adopted thereunder govern all "municipal affairs." Under the "Home Rule Doctrine," the ordinances and regulations of charter cities supersede state law with respect to municipal affairs, while state law is supreme with respect to matters of "statewide concern." (*State Bldg. and Constr. Trades Council of Cal., AFL-CIO v. City of Vista* (2012) 54 Cal.4th 547, 555-558 ("*Vista*").)

In *Vista*, the high court concluded that no statewide concern exists that would justify prevailing wage laws enacted by the State to preempt wage rates adopted by a charter city for locally funded public works. (*Id.* at p. 556.) Fundamental to the Supreme Court's holding are

the following well-settled precepts of California constitutional law, all of which apply to the City here, a charter city:

- The control over the expenditure of a city's own funds is "quintessentially a municipal affair." (*Id.* at p. 559.)
- The State cannot regulate the spending practices of charter cities "merely by identifying some indirect effect on the regional and state economies." (*Id.* at p. 562.)
- Autonomy with regard to the expenditure of public funds "lies at the heart" of what it means to be an independent governmental entity. (*Ibid.*)
- Nothing is of greater municipal concern "than how a city's tax dollars will be spent...." (*Ibid.*)

Equally important, the high court reaffirmed that the determination as to what constitutes a "municipal affair," over which the state has no legislative authority, and what constitutes a statewide concern is a matter for the courts, not the Legislature, to decide. (*Ibid.*) "[T]he concept of statewide concern is not coextensive with the state's police power." (*Ibid.*)

If a state agency were to invalidate charter city loan agreements with their former redevelopment agencies, then ABx1 26 violates Article XI, section 5, of the California Constitution because the state – not a charter city, as the City of Oroville in this instance – would have usurped the city's ability to govern how its tax dollars are to be spent. By nullifying the city's ability to receive money that the charter city not only *chose* to loan to its redevelopment agency in accordance with the allowance under the CRL and its own charter authority, but for which it also *expected* to receive repayment, ABx1 26 unconstitutionally encroaches on the expenditure of a city's own funds, "quintessentially a municipal affair." (*Vista, supra*, 54 Cal.4th at p. 559.)

That the state may claim the purpose for invalidating city/redevelopment agency loan agreements relates to balancing its FY 2011-12 budget is of no consequence. The *Vista* case makes clear that the state can make its own resources available to support state services covered by the budget, but the state cannot achieve these ends by interfering with the fiscal policies of a charter city. (*Vista, supra*, 54 Cal.4th at p. 562.)

Additionally, the amendments in AB 1484, which added a process whereby city/redevelopment agency loan agreements may become "reactivated" as "enforceable obligations" if DOF determines the city's successor agency makes all payments required to other taxing entities, does not impact the applicability of the Home Rule Doctrine. (See Health & Saf. Code, §§ 34191.1, 34191.4(b).) The Legislature does not have the authority to regulate municipal affairs, such as the use of local agency funds and ability to contract for use of those funds. (*Vista, supra*, 54 Cal.4th at p. 562.) Even if the Legislature could regulate under this sphere of influence, AB 1484 drastically changes the terms of repayment to cities by: (1) requiring oversight board and DOF approval before getting any repayment; (2) if approved,

Steven Mar, Chief (Local Governments Audit Bureau)
March 29, 2013
Page 12

limiting when a city may get repaid; and (3) recalculating the amount that a city may be repaid.
(Health & Saf. Code, § 34191.4(b)(2).)

Therefore, invalidation of the repayments made to the City – a charter city – would violate Article XI, section 5, which means, in turn, that the repayments made under the Loan Agreement/Cooperation must be honored and are enforceable.

If you have any questions, please do not hesitate to contact the undersigned. Thank you for your consideration of the matters raised in the City's and Oroville Successor Agency's Comments to State Controller's Office Draft Asset Transfer Review Report.

Sincerely,



Scott E. Huber
COTA COLE LLP

Enclosures: Exhibit 1, Agreement No. 87-890 dated October 19, 1987
Exhibit 2, Minutes of March 2, 2011, Joint Meeting of City Council and RDA
Exhibit 3, Minutes of August 2, 2011, City Council Meeting
Exhibit 4, Minutes of August 2, 2011, RDA Meeting
Exhibit 5, Minutes of January 30, 2012, Special Joint Meeting of City Council
and RDA

EXHIBIT 1

CITY OF OROVILLE

RESOLUTION NO. 4261

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE
A LOAN AGREEMENT WITH THE OROVILLE REDEVELOPMENT AGENCY
(Agreement No. 87-890)

BE IT HEREBY RESOLVED by the City of Oroville,
as follows:

1. The Mayor is hereby authorized and directed to execute a Loan Agreement with the Oroville Redevelopment Agency, a copy of which Agreement is attached hereto as Exhibit "A" and incorporated hereat.
2. The City Clerk shall attest to the adoption of this Resolution.


PASSED AND ADOPTED by the City of Oroville at adjourned
meeting on October 19, 1987, by the following vote:

AYES: Harvey, Rossas, Sears, Streeter, Thomas, Roberts, Wilson

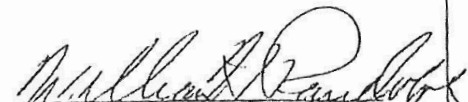
NOES: None

ABSTAIN: None

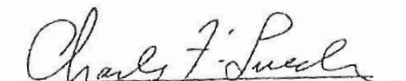
ABSENT: None


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


CITY COUNSEL ATTORNEY

1 LOAN AGREEMENT BY AND BETWEEN THE CITY OF OROVILLE AND
2 THE OROVILLE REDEVELOPMENT AGENCY
3

4 THIS AGREEMENT is entered into this 19th day of October ,
5 1987, by and between the CITY OF OROVILLE (CITY), and the
6 OROVILLE REDEVELOPMENT AGENCY (AGENCY).
7

8 WHEREAS, the Redevelopment Plan for the Oroville
9 Redevelopment Project No. 1 authorizes AGENCY to construct public
10 improvements for the irrigation system located in the Table
11 Mountain Golf Course; and
12

13 WHEREAS, the CITY and the AGENCY have determined that the
14 improvement of the irrigation system of the Table Mountain Golf
15 Course is in the public interest and is necessary in order to
16 carry out the provisions of the Plan; and
17

18 WHEREAS, the AGENCY has found and determined that if the
19 AGENCY incurs debt for the financing of said irrigation system
20 improvement CITY will not be adversely impacted thereby, and CITY
21 has or will have the ability to maintain said facilities; and
22

23 WHEREAS, the CITY has found and determined that it is in the
24 public interest to lend to the AGENCY a sum of money sufficient
25 to carry out the improvement of said irrigation system,
26

27 NOW, THEREFORE, the CITY and AGENCY hereby agree as follows:
28

29 SECTION 1: The AGENCY will pay all the cost of the acquisition, design,
30 installation or construction of the improvement of the
31 irrigation system of the back nine (9) holes of the Table
32 Mountain Golf Course (hereinafter called "the irrigation
33 system"), subject to reimbursement of a portion of the cost
34 pursuant to an Agreement with Table Mountain Golf Club, Inc.

35 SECTION 2: The AGENCY will finance the irrigation system by borrowing
36 from CITY, and CITY hereby agrees to lend to AGENCY all the
 monies necessary and convenient for the completion of the
 extension, including, but not limited to, land acquisition,
 design, construction, survey control, testing, inspection and
 contingencies.

1 SECTION 3: The agency agrees to reimburse CITY for services
2 rendered to AGENCY and for costs incurred by CITY
3 behalf of AGENCY, which amounts may include the pay-
4 ment of a part of the salaries of CITY's officers and
5 employees where such officers and employees performed
6 services for AGENCY. Said costs and expenses shall
7 be added to the principal amount of the loan to
8 AGENCY.

9 The AGENCY shall repay CITY at such times as funds
10 become available to AGENCY for repayment. The loan
11 shall bear interest at a rate of two (2%) per cent
12 greater than the average interest rate achieved by
13 CITY on its other available idle funds, such rate to
14 be determined annually as soon after each June 30 as
15 practicable. Repayment of the loan need not be made
16 by AGENCY until all other debts or obligations of
17 AGENCY which heretofore have been or may hereafter be
18 incurred by it have been satisfied, and the repayment
19 obligation of AGENCY shall be subordinate to any
20 interim or permanent financing of AGENCY.

21 SECTION 4: The AGENCY hereby finds and determines that the debt
22 of AGENCY for the financing of the extension will not
23 adversely impact upon the CITY, and further finds and
24 determines that CITY has or will have the ability to
25 maintain the facilities
26 constructed pursuant to this Agreement.

27 IN WITNESS WHEREOF, the parties have executed this Agreement
28 on a date first above written.

29 CITY OF OROVILLE

30 BY: *Jonah Wilson*

31 Mayor

32 ATTEST: *William D. Randolph*

33 City Clerk

34 OROVILLE REDEVELOPMENT AGENCY

35 BY: *Jonah Wilson*

36 Chairperson

37 ATTEST: *[Signature]*

38 Executive Director

39 APPROVED AS TO FORM:

40 *Charles F. Luecke*
41 City Attorney

EXHIBIT 2

**OROVILLE CITY COUNCIL – OROVILLE REDEVELOPMENT AGENCY
JOINT MEETING MINUTES
MARCH 2, 2011 – 5:30 P.M.**

The agenda for the March 2, 2011 joint meeting of the Oroville City Council and the Oroville Redevelopment Agency was posted on the bulletin board at the front of City Hall on Friday, February 25, 2011 at 4:51 p.m.

The March 2, 2011 joint meeting of the Oroville City Council and the Oroville Redevelopment Agency was called to order by Mayor Dahlmeier at 5:35 p.m.

ROLL CALL

Present: Council Members/Commissioners Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier
Absent: None

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Jennifer Carvalho, Northwest Lineman's College.

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS

Bud Tracy – Item No. 2

Jennifer Carvalho – Item No. 2

REGULAR BUSINESS (These Regular Business Items were heard out of order)

2. DIRECT THE CITY ADMINISTRATOR TO DEVELOP A SHORT AND LONG TERM STRATEGY FOR THE ACQUISITION, LEASE AND PROPERTY MANAGEMENT OF 2015 CHALLENGER WAY

The Council/Commission considered directing the City Administrator to develop a short and long term strategy for the acquisition, lease and property management of 2015 Challenger Way. (G. Harold Duffey, City Administrator/Executive Director)

G. Harold Duffey, City Administrator/Executive Director, explained that due to the recent dissolution of the Private Industry Council of Butte County, Inc. (PIC), some retail outlets have closed that was managed by PIC. PIC was also involved in training individuals for jobs in green technology at the CleanTech Innovation Center located at 2015 Challenger Way at the airport. Mr. Duffey explained it is anticipated that PIC will default on the lease of the building and the tenants of the building have been left with the uncertainty of whether or not they will be able to remain in the building and/or who will they be paying the rent to. Mr. Duffey explained that PIC was supposed to purchase the building with a loan from USDA Rural Development for \$2.7 million dollars. The sale was halted the night before it was to be finalized.

Mr. Duffey informed the Council/Commission that he has contacted the Newport Corporation of California regarding the assumption of the sublease of 2015 Challenger Way. The Newport Corporation is open to the idea of subleasing the building to the City once they receive notification from PIC that they will default on the lease.

Mr. Duffey reported that he has contacted the owner of the building regarding its purchase by the City. Mr. Duffey explained that he would work with USDA Rural Development to determine if the City is eligible to assume the loan for the acquisition of the Clean Tech Innovation Center.

Mr. Duffey explained that Living Elements is willing to act as property manager to coordinate tenant activities at 2015 Challenger Way.

Mr. Duffey stated that what has happened with PIC has also affected the Northwest Lineman College. The Northwest Lineman College received an SESP grant through PIC for their innovative Smart Grid Program. The total cost of the program is \$490,000. The College has approximately \$200,000 invested in the program and was ready to submit their receipts for reimbursement. The grant came from Nortec and Nortec has already released the funds to PIC. Mr. Duffey explained that he is in the process of setting up a meeting with Senator La Malfa to find out who ultimately is responsible for those funds.

Bud Tracy, Tracy Realty Company, spoke to the Council regarding the benefit of having the Northwest Lineman College in Oroville.

Mayor Dahlmeier questioned whether or not PG&E is involved in the grant program.

Jennifer Cavalho, Northwest Lineman College, explained that PG&E regards the Northwest Lineman College as a preferred partner in training. PG&E sends pre-apprentices to the college for training before they enter into PG&E's apprentice program. PG&E is only one of 16,000 utilities in the United States. Ms. Cavalho explained that the college has industry partners and utilities companies that will be bringing their people here for training and the industry partners will also bring their clients to the college to demonstrate their products using this cutting edge technology, the Smart Grid Program.

After discussion, the Council/Commission:

1. **Directed staff to enter into negotiations with Newport Corporation of California for the assumption of the sublease of 2015 Challenger way, which was recently vacated by the Private Industry Council.**
2. **Directed the City Administrator/Executive Director to negotiate a property management agreement with Living Elements to coordinate tenant activities at 2015 Challenger Way.**
3. **Direct City Administrator/Executive Director to work with USDA Rural Development to determine City's eligibility to assume USDA Rural Development funding for the acquisition of the Clean Tech Innovation Center located at 2015 Challenger Way.**

1. **FUNDING AGREEMENT ALLOCATING FUTURE TAX INCREMENT REVENUE FOR CAPITAL IMPROVEMENTS, AFFORDABLE HOUSING, GRAFFITI REMOVAL AND ADMINISTRATIVE OVERHEAD – staff report**

The Council/Commission considered approving a Funding Agreement to allocate future tax increment revenue generated from the Oroville Redevelopment Agency's Project Area No. 1 to the City of Oroville to finance public capital improvements, affordable housing, graffiti abatement and removal and the cost to administer such programs. (G. Harold Duffey, City Administrator)

Tom Fitzpatrick, RDA Coordinator, gave a PowerPoint presentation regarding the Governor's Budget Legislation to eliminate redevelopment agencies in California. Mr. Fitzpatrick explained that on January 10, 2011, Governor Jerry Brown announced his budget proposal. One of the more significant items, and possibly the most controversial, is his proposal to change the role that local governments play in local economic development activities by eliminating redevelopment agencies statewide. On February 1, 2011, the Oroville Redevelopment Agency Commission directed staff to prepare an agreement to secure future tax increment dollars to be used for capital improvement projects, affordable housing, graffiti abatement and removal, and administrative overhead.

Mr. Fitzpatrick continued by explaining that the funding agreements are necessary to provide the City with an avenue to obtain reimbursement for costs associated with construction of capital improvement projects, affordable housing, federally mandated accessibility improvements, graffiti abatement, and administrative overhead to eliminate blight and to attract private investment when there are no other means to finance these improvements. Historically, the Oroville Redevelopment Agency has funded these types of public improvements on behalf of the City but has not adopted a cooperative agreement with the City. The proposed agreement would formalize the City's ability to obtain reimbursement for all costs incurred from the Agency. These reimbursements to the City are expenditures by the Agency; expenditures that provide the basis for preserving the City's annual tax increment to the Agency.

Mr. Fitzpatrick concluded his presentation by restating staff's recommendations:

- Repayment of the \$1,800,000 loan to the City of Oroville by the Oroville Redevelopment Agency; and
- Transfer all RDA assets to the City no later than June 30, 2011 or prior to the adoption of the State budget.

Scott Huber, City Attorney/Agency Counsel, explained that there is no guarantee that redevelopment agencies will continue to exist in California. This is uncharted territory and there is no way of knowing what the outcome will be. Mr. Huber explained that the Governor is trying to make the budget legislation retroactive to January 1, 2011 in order to nullify agreements that cities are making to protect their assets from the State. Mr. Huber stated that, in his opinion, it is better for the City to be proactive when dealing with the Governor's proposal by approving these funding agreements rather than being reactive.

G. Harold Duffey, City Administrator/Executive Director, reminded the Council/Commission that for every RDA dollar that is spent brings thirteen dollars of private investment dollars into the community. Mr. Duffey explained that the Governor's proposal basically says that the redevelopment agencies are taking away large amounts of money from other services.

Looking at the breakdown of the tax increment, \$45 million dollars in pass-through funds help fund fifteen other agencies. Mr. Duffey stated that, in his opinion, the Redevelopment Agency has been paying its fair share.

Council Member Simpson questioned whether or not a hold would be placed on the RDA funds if there was litigation against the Governor's proposal.

Mr. Huber responded by explaining that the Governor would request that the Court put a hold on the RDA funds while the legality of his proposal is being debated to determine its constitutionality. Typically, the Courts will only stay or freeze legislation if there is a harmful effect that cannot be undone if that legislation is found to be unconstitutional. Eliminating redevelopment agencies would fall under this category.

Mr. Duffey added that the biggest opponent to the proposal is the League of California Cities who authored Proposition 22. Proposition 22 prohibits the state from borrowing or taking funds used for transportation, redevelopment, or local government projects and services. Proposition 22 passed on November 2, 2010.

After further discussion, a motion was made by Council Member/Commissioner Andoe, seconded by Council Member/Commissioner Bunker, to:

Adopt Resolution No. 7689 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A FUNDING AGREEMENT BETWEEN THE CITY OF OROVILLE AND THE OROVILLE REDEVELOPMENT AGENCY FOR FUTURE CAPITAL IMPROVEMENTS, AFFORDABLE HOUSING, GRAFFITI ABATEMENT AND REMOVAL, AND ADMINISTRATIVE OVERHEAD – (Agreement No. 1992).

The motion was passed by the following vote:

Ayes:	Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier
Noes:	None
Abstain:	None
Absent:	None

Adopt Resolution No. 11-04 - A RESOLUTION OF THE OROVILLE REDEVELOPMENT AGENCY AUTHORIZING AND DIRECTING THE CHAIRPERSON TO EXECUTE A FUNDING AGREEMENT BETWEEN THE OROVILLE REDEVELOPMENT AGENCY AND THE CITY OF OROVILLE FOR FUTURE CAPITAL IMPROVEMENTS, AFFORDABLE HOUSING, GRAFFITI ABATEMENT AND REMOVAL, AND ADMINISTRATIVE OVERHEAD – (Agreement No. 11-03).

The motion was passed by the following vote:

Ayes:	Commissioners Andoe, Bunker, Dahlmeier, Simpson, Wilcox, Vice Chairperson Pittman, Chairperson Berry
Noes:	None
Abstain:	None
Absent:	None

HEARING OF INDIVIDUALS ON NON-AGENDA ITEMS – None

ADJOURNMENT

The meeting was adjourned at 6:47 p.m. A regular meeting of the Oroville City Council will be held on Tuesday, March 15, 2011 at 7:00 p.m.


Linda Dahlmeier, Mayor


Jack Berry, RDA Chairperson

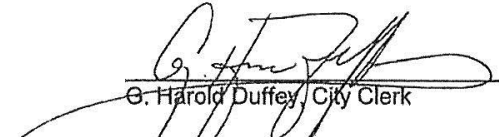

G. Harold Duffey, City Clerk

EXHIBIT 3

**OROVILLE CITY COUNCIL MEETING MINUTES
AUGUST 2, 2011 – 6:00 P.M.**

The agenda for the August 2, 2011 regular meeting of the Oroville City Council was posted on the bulletin board at the front of City Hall on Friday, July 29, 2011, at 11:15 a.m.

The August 2, 2011 regular meeting of the Oroville City Council was called to order by Vice Mayor Wilcox at 6:02 p.m.

ROLL CALL

Present: Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox
Absent: Mayor Dahlmeier (Excused)

Staff Present:

G. Harold Duffey, City Administrator	Scott Huber, City Attorney
Bill La Grone, Chief of Police	Diane MacMillan, Director of Finance
Christopher Fridrich, Director of Parks and Trees	Charles Hurley, Fire Chief
Don Rust, Director of Planning and Development Services	Liz Ehrenstrom, Human Resource Analyst II
Rick Walls, Director of Public Works	Karolyn Fairbanks, City Treasurer
Pat Clark, Director of Business Assistance and Housing Development	Sharon Mize, Administrative Assistant

CLOSED SESSION

The Council held a Closed Session on the following:

1. Pursuant to Government Code Section 54956.9(b), the Council met with City Attorney, Scott E. Huber, and City Administrator, G. Harold Duffey, concerning potential litigation - one case.
2. Pursuant to Government Code Section 54957, the Council met with Labor Negotiator, G. Harold Duffey and City Attorney, Scott E. Huber, to consider the extension of the Employment Agreement for Diane MacMillan, Director of Finance.
3. Pursuant to Government Code Section 54956.8, the Council met with Real Property Negotiators (City Attorney, Scott E. Huber, and City Administrator, G. Harold Duffey) regarding the potential purchase of property, address to be determined.
4. Pursuant to Government Code Section 54947.7, the Council met with Labor Negotiator, G. Harold Duffey, to discuss labor negotiations.

The Council reconvened from Closed Session. Vice Mayor Wilcox announced that no action was taken in Closed Session and direction was given to staff.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Bill La Grone, Chief of Police.

PROCLAMATIONS / PRESENTATIONS

A *New Business Acknowledgement* and *Welcome to Oroville* for *Luceddie's Restaurant* was presented to Carry Denlay by Council Member Berry.

A *New Business Acknowledgement* and *Welcome to Oroville* for *Blondie's Diner* was presented to Brandi Reed by Council Member Pittman..

A Proclamation in *Recognition and Appreciation of Mike Phulps* for making and donating the gold stars that will go on the street signs named after members of the Armed Forces that were killed in action was presented to Mr. Phulps by Council Member Bunker.

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS

Al Zib – Items No. 6, 7, and 11
Alan Roth – Item No. 13

Vera Roth – Item No. 11
Virgil Gage – Item No. 13

CONSENT CALENDAR

A motion was made by Council Member Bunker, seconded by Council Member Berry, to approve the following Consent Calendar with the exception of item no. 6:

1. **APPROVAL OF THE MINUTES OF THE JULY 19, 2011 REGULAR MEETING OF THE OROVILLE CITY COUNCIL** - minutes attached.
2. **SUPPLEMENTAL BENEFIT FUND AGREEMENT WITH THE OROVILLE AREA CHAMBER OF COMMERCE AND UPSTATE COMMUNITY ENHANCEMENT FOUNDATION** - staff report

The Council, serving as the SBF Fund Administrator, considered approving an Agreement, previously approved by the SBF Committee, with the Oroville Area Chamber of Commerce and Upstate Community Enhancement Foundation, in the amount of \$40,000. (G. Harold Duffey, City Administrator and Bob Marciniak, SBF Project Coordinator)

Council Action Requested: **Adopt Resolution No. 7777 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE VICE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF OROVILLE, AS FUND ADMINISTRATOR OF THE SUPPLEMENTAL BENEFIT FUND, AND THE OROVILLE AREA CHAMBER OF COMMERCE AND UPSTATE COMMUNITY ENHANCEMENT FOUNDATION FOR FUNDING OF AN EVENT COORDINATOR – (Agreement No. 1901-3).**

3. **SUPPLEMENTAL BENEFIT FUND AGREEMENT WITH FEATHER RIVER RECREATION AND PARK DISTRICT** - staff report

The Council, serving as the SBF Fund Administrator, considered approving an Agreement, previously approved by the SBF Committee, with Feather River Recreation and Parks District, in the amount of \$167,818.37. (G. Harold Duffey, City Administrator and Bob Marciniak, SBF Project Coordinator)

Council Action Requested: Adopt Resolution No. 7778 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE VICE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF OROVILLE, AS FUND ADMINISTRATOR OF THE SUPPLEMENTAL BENEFIT FUND, AND FEATHER RIVER RECREATION AND PARK DISTRICT FOR FUNDING OF A FOURTH SOCCER FIELD AT RIVERBEND NORTH PARK – (Agreement No. 1855-3).

4. **SUPPLEMENTAL BENEFIT FUND AGREEMENT WITH THE CITY OF OROVILLE POLICE DEPARTMENT - staff report**

The Council, serving as the SBF Fund Administrator, considered approving an Agreement, previously approved by the SBF Committee, with the City of Oroville Police Department, in the amount of \$35,315. (G. Harold Duffey, City Administrator and Bob Marciniak, SBF Project Coordinator)

Council Action Requested: Adopt Resolution No. 7779 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE VICE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF OROVILLE, AS FUND ADMINISTRATOR OF THE SUPPLEMENTAL BENEFIT FUND, AND THE CITY OF OROVILLE POLICE DEPARTMENT, FOR FUNDING OF TWO GLOBAL ELECTRIC MOTORCARS – (Agreement No. 2020).

5. **RESPONSE TO 2010-2011 BUTTE COUNTY GRAND JURY REPORT - staff report**

The Council considered approving the response to the 2010-2011 Butte County Grand Jury Report related to the Butte Interagency Narcotics Task Force, South facilities, which are owned by the City of Oroville. (Scott E. Huber, City Attorney)

Council Action Requested: Approve the City of Oroville's response to the 2010-2011 Butte County Grand Jury Report and authorize the Vice Mayor to sign the response on behalf of the City Council.

6. **THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR (SEE BELOW).**

The motion to approve the above Consent Calendar, with the exception of item no. 6, was passed by the following vote:

Ayes:	Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox
Noes:	None
Abstain:	None
Absent:	Mayor Dahlmeier

ITEM(S) REMOVED FROM THE CONSENT CALENDAR

6. **AMENDMENT TO THE FUNDING AGREEMENT BETWEEN THE CITY OF OROVILLE AND THE OROVILLE REDEVELOPMENT AGENCY RELATING TO THE ALLOCATION OF FUTURE TAX INCREMENT REVENUE FOR CAPITAL IMPROVEMENTS, AFFORDABLE HOUSING, GRAFFITI REMOVAL, AND ADMINISTRATIVE OVERHEAD, AND ESTABLISHMENT OF HOUSING AUTHORITY - staff report**

The Council considered an Amendment to the Funding Agreement between the City of Oroville and the Oroville Redevelopment Agency cancelling the funding for future public capital improvements, affordable housing, graffiti abatement and removal, and administrative overhead.

The Council also considered the cancellation of Resolution No. 7694 which established a Housing Authority in the City of Oroville. (Scott E. Huber, City Attorney)

This item was removed from the Consent Calendar to allow a member of the audience to speak on this item.

Al Zib spoke to the Council regarding this item.

A motion was made by Council Member Pittman, seconded by Council Member Andoe, to:

1. **Adopt Resolution No. 7785 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE VICE MAYOR TO EXECUTE AN AMENDMENT TO THE FUNDING AGREEMENT BETWEEN THE CITY OF OROVILLE AND THE OROVILLE REDEVELOPMENT AGENCY CANCELLING THE FUNDING FOR FUTURE PUBLIC CAPITAL IMPROVEMENTS, AFFORDABLE HOUSING, GRAFFITI ABATEMENT AND REMOVAL, AND ADMINISTRATIVE OVERHEAD - (Agreement No. 1992-1).**
2. **Adopt Resolution No. 7786 – A RESOLUTION OF THE OROVILLE CITY COUNCIL CANCELLING THE ENACTMENT OF RESOLUTION NO. 7694 WHICH ESTABLISHED A HOUSING AUTHORITY IN THE CITY OF OROVILLE.**

The motion was passed by the following vote:

Ayes:	Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox
Noes:	None
Abstain:	None
Absent:	Mayor Dahlmeier

PUBLIC HEARINGS

7. **ORDINANCE CONTINUING THE OROVILLE REDEVELOPMENT AGENCY PURSUANT TO ABX127 – VOLUNTARY PAYMENTS – staff report**

The Council conducted a public hearing and considered an Ordinance complying with the Voluntary Alternative Redevelopment Program, pursuant to AB1X27 to permit the continued existence and operation of the Oroville Redevelopment Agency (Scott E. Huber, City Attorney)

and Tom Fitzpatrick, RDA Coordinator)

Vice Mayor Wilcox opened the Public Hearing.

Al Zib spoke to the Council regarding this item

Hearing no other comments or questions from the public, Vice Mayor Wilcox closed the Public Hearing.

A motion was made by Council Member Pittman, seconded by Council Member Andoe, to:

1. **Waive the first reading and introduce by title only, Ordinance No. 1777 – AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE COMPLYING WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM PURSUANT TO ABX127 TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE OROVILLE REDEVELOPMENT AGENCY.**
2. **Approve Supplemental Appropriation No. 2011/12-0811-08 as indicated in the August 2, 2011 staff report.**

The motion was passed by the following vote:

Ayes:	Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox
Noes:	None
Abstain:	None
Absent:	Mayor Dahlmeier

8. **2011 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM APPLICATION – staff report**

The Council conducted a public hearing relating to an application for grant funds, in the amount of \$20,265, through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. (Bill La Grone, Chief of Police)

Council Member Berry opened the Public Hearing. Hearing no comments or questions from the public, Council Member Berry closed the Public Hearing.

A motion was made by Council Member Pittman, seconded by Council Member Bunker, to:

Authorize the Police Department to submit an application for grant funds, in the amount of \$20,265, through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

The motion was passed by the following vote:

Ayes:	Council Members Andoe, Berry, Bunker, Pittman, Simpson
Noes:	None
Abstain:	None
Absent:	Vice Mayor Wilcox, Mayor Dahlmeier

9. **ANNUAL ASSESSMENTS FOR THE CITY'S CONSOLIDATED BENEFIT ASSESSMENT**

DISTRICT, ZONES 1-8 – staff report

The Council conducted a public hearing and considered approving the Annual Engineer's Report and levy assessments relating to eight (8) Benefit Assessment Districts. **(Rick Walls, Director of Public Works)**

Council Member Berry opened the Public Hearing. Hearing no comments or questions from the public, Council Member Berry closed the Public Hearing.

A motion was made by Council Member Bunker, seconded by Council Member Simpson, to:

1. **Adopt Resolution No. 7780 - A RESOLUTION OF THE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO APPROVE THE ANNUAL ASSESSMENT REPORT, AS SUBMITTED OR AMENDED, AND TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE OROVILLE CONSOLIDATED BENEFIT ASSESSMENT DISTRICT FOR FISCAL YEAR 2011/12.**
2. **Authorize the Mayor to sign the Proposition 218 Certificate for inclusion on the 2011/12 Butte County Tax Roll.**
3. **Authorize all necessary budget adjustments to the Annual Assessment Report.**

The motion was passed by the following vote:

Ayes:	Council Members Andoe, Berry, Bunker, Pittman, Simpson
Noes:	None
Abstain:	None
Absent:	Vice Mayor Wilcox, Mayor Dahlmeier

10. ANNUAL ASSESSMENTS FOR THE CITY'S CONSOLIDATED LANDSCAPE AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT, ZONES 1-19 – staff report

The Council conducted a public hearing and considered approving the Annual Engineer's Report and levy assessments relating to the City's Consolidated Landscape and Lighting Maintenance Assessment Districts, Zones 1-19. **(Rick Walls, Director of Public Works)**

Council Member Berry opened the Public Hearing. Hearing no comments or questions from the public, Council Member Berry closed the Public Hearing.

A motion was made by Council Member Andoe, seconded by Council Member Pittman, to:

1. **Adopt Resolution No. 7781 - A RESOLUTION OF THE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO APPROVE THE ANNUAL ASSESSMENT REPORT, AS SUBMITTED OR AMENDED, AND TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE OROVILLE CONSOLIDATED LANDSCAPE AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT FOR FISCAL YEAR 2011/12.**
2. **Authorize the Mayor to sign the Proposition 218 Certificate for inclusion on the 2011/2012 Butte County Tax Roll.**

3. Authorize all necessary budget adjustments to the Annual Assessment Report.

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Simpson
Noes: None
Abstain: None
Absent: Vice Mayor Wilcox, Mayor Dahlmeier

REGULAR BUSINESS

11. PLACEMENT OF DELINQUENT GARBAGE BILLS ON THE 2011/12 PROPERTY TAX ROLL - staff report

The Council considered the placement of delinquent garbage bills to Recology on the 2011/12 Property Tax Roll. (Diane MacMillan, Director of Finance)

Al Zib spoke to the Council in opposition of this item.

Vera Roth spoke to the Council in opposition of this item.

A motion was made by Council Member Andoe, seconded by Council Member Bunker, to:

Adopt Resolution No. 7782 – A RESOLUTION OF THE OROVILLE CITY COUNCIL ADOPTING DIRECT ASSESSMENT FOR DELINQUENT GARBAGE BILLS FOR FISCAL YEAR 2010/11 ON THE 2011/12 PROPERTY TAX ROLL AND AUTHORIZING THE MAYOR TO EXECUTE THE PROPOSITION 218 CERTIFICATION OF TAX BILL LEVY.

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Simpson
Noes: None
Abstain: None
Absent: Vice Mayor Wilcox, Mayor Dahlmeier

12. AMENDMENT TO AGREEMENT WITH R.D. PRATER CONSTRUCTION COMPANY, INC., EXPANDING SERVICES TO INCLUDE THE SUPERVISION, PROJECT MANAGEMENT AND CONTINGENCY OF THE YOUTH BUILD FOR BASKETBALL PROJECT – staff report

The Council considered authorizing the use of Park Development Impact Fees and City Revolving Loan Funds, not to exceed \$15,000, to be specifically designated for the supervision, project management and \$30,000 for additional projects costs and contingency for the Youth Build for Basketball Project.

The Council also considered an Amendment to the Agreement with R.D. Prater Construction Company, Inc., specifically for supervision, project management and a contingency for the Youth Build for Basketball Project. (Pat Clark, Director of Business Assistance and Housing Development)(*This item was continued from the July 19, 2011 City Council meeting*)

This item was continued to a future meeting at the request of the Council in order to include all of the costs associated with this project, therefore, no action was taken on the following:

1. **Adopt Resolution No. 7776- A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH R.D. PRATER CONSTRUCTION COMPANY, INC, SPECIFICALLY FOR SUPERVISION, PROJECT MANAGEMENT AND A CONTINGENCY FOR THE YOUTH BUILD FOR BASKETBALL PROJECT - (Agreement No. 1973-2).**
2. **Approve Supplemental Appropriation No. 2011/12-0811-06 as indicated in the August 2, 2011 staff report.**

13. PURCHASE OF OFF-ROAD JET RODDING SEWER TRUCK – staff report

The Council considered the purchase of an off-road jet rodding sewer truck, in an amount not to exceed \$362,376, through the Houston Galveston Area Council's Government Procurement Program. (Rick Walls, Director of Public Works)

Alan Roth spoke to the Council in opposition of this item.

Virgil Gage spoke to the Council in opposition of this item.

A motion was made by Council Member Andoe, seconded by Council Member Pittman, to:

1. **Authorize the purchase of an off-road jet rodding sewer truck, in an amount not to exceed \$362,376, through the Houston Galveston Area Council's Government Procurement Program.**
2. **Approve Supplemental Appropriation No. 2011/12-0811-05 as indicated in the August 2, 2011 staff report.**

This item failed by the following vote:

Ayes:	Council Members Andoe, Berry, Pittman
Noes:	Council Members Bunker, Simpson
Abstain:	None
Absent:	Vice Mayor Wilcox, Mayor Dahlmeier

14. ACCEPTANCE AND APPROPRIATION OF A SUPPLEMENTAL BENEFIT FUND GRANT FOR THE OROVILLE POLICE DEPARTMENT – staff report

The Council considered the acceptance and appropriation of Supplemental Benefit Fund (SBF) grant funds, in the amount of \$35,315, for the purchase of two Global Electric Motorcars for the Oroville Police Department. (Bill La Grone, Chief of Police)

A motion was made by Council Member Simpson, seconded by Council Member Bunker, to:

1. **Accept the Supplemental Benefit Fund grant funds in the amount of \$35,315.**

2. **Approve the purchase of two Global Electric Motorcars in an amount not to exceed \$35,315, utilizing the State of California's contract purchase pricing.**
3. **Approve Supplemental Appropriation No. 2011/12-0811-07 as indicated in the August 2, 2011 staff report.**

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Simpson
Noes: None
Abstain: None
Absent: Vice Mayor Wilcox, Mayor Dahlmeier

15. **ANNUAL SPECIAL TAX FOR THE CITY'S COMMUNITY FACILITIES DISTRICT NO 2006-1 (WESTSIDE PUBLIC SAFETY FACILITIES) AND DISTRICT NO. 2006-2 (PUBLIC SAFETY SERVICES) FOR FISCAL YEAR 2011/12 – staff report**

The Council considered the annual Special Tax relating to the City's Community Facility Districts. (Rick Walls, Director of Public Works)

A motion was made by Council Member Andoe, seconded by Council Member Pittman, to:

1. **Adopt Resolution No. 7783 – A RESOLUTION OF THE OROVILLE CITY COUNCIL ESTABLISHING THE ANNUAL SPECIAL TAX FOR COMMUNITY FACILITIES DISTRICT NO. 2006-1, WESTSIDE PUBLIC SAFETY FACILITIES, FOR FISCAL YEAR 2011/12.**
2. **Adopt Resolution No. 7784 – A RESOLUTION OF THE OROVILLE CITY COUNCIL ESTABLISHING THE ANNUAL SPECIAL TAX FOR COMMUNITY FACILITIES DISTRICT NO. 2006-2, PUBLIC SAFETY SERVICES, FOR FISCAL YEAR 2011/12.**
3. **Authorize the Vice Mayor to sign the Proposition 218 Certificate for inclusion on the 2011/2012 Butte County Tax Roll.**

The motion failed by the following vote:

Ayes: Council Members Andoe, Pittman, Simpson
Noes: Council Members Berry, Bunker
Abstain: None
Absent: Vice Mayor Wilcox, Mayor Dahlmeier

Scott Huber, City Attorney, explained that items no. 13 and 15 failed because they did not have the majority vote of the full Council. The items could be placed back on the agenda for the next Council meeting if one of the Council Members on the prevailing side made a motion to reconsider the item.

Mr. Huber also explained that if an item was placed on the agenda by a staff person and the full Council was not present, the staff person could place it on the next agenda for consideration of the full Council.

Council Member Bunker made a motion to reconsider this item at the next Council Meeting when the full Council was present. The motion was seconded by Council Member Pittman.

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Simpson
Noes: None
Abstain: None
Absent: Vice Mayor Wilcox, Mayor Dahlmeier

HEARING OF INDIVIDUALS ON NON-AGENDA ITEMS

Stu Shaner, Co-Chairperson of the Veterans' Memorial Park Project, informed the Council that fill dirt was needed at the Project site and will take any excess dirt from Hewitt Park.

Victoria Coots spoke to the Council regarding the separation of Church and State and said a prayer for Public Officials.

Vera Roth spoke to the Council about an article she had read in the Oroville Mercury Register.

Al Zib spoke to the Council regarding Cal Water's high water rates.

MAYOR/ COUNCIL REPORTS

Senator Doug LaMalfa's Open House

Council Member Berry reported that there was not a lot of opportunity to talk to Senator LaMalfa because he was in such high demand but he was well received by everyone in attendance.

Council Member Bunker reported that she had met with Senator LaMalfa along with G. Harold Duffey, City Administrator, Sam Driggers, Redevelopment and Economic Development Manager, and Rick Walls, Director of Public Works, prior to the Open House and the meeting went very well.

Oroville Economic Development Corporation (OEDCO)

Council Member Berry reported that the main topic of discussion was goal setting and objectives. G. Harold Duffey, City Administrator, introduced Sam Driggers, Redevelopment and Economic Development Manager, at the meeting. The OEDCO members were impressed with both Mr. Duffey and Mr. Driggers.

Council Member Bunker reminded the Council that the Annual OEDCO BBQ is scheduled for August 18, 2011 at 5:30 p.m. at the Long Creek Winery.

Sewerage Commission – Oroville Region (SC-OR)

Council Member Simpson reported that the Commission had met with Senator LaMalfa and Mr. Ramirez, Department of Water Resources, and discussed the Hydro-Electric Facility Project at the Thermalito Afterbay.

Council Member Simpson reported that the Commission discussed the West Interceptor Re-alignment

Project at their regular Commission meeting. The Project is scheduled to start on September 7, 2011 and be completed by October 18, 2011. The Commission authorized the Pipe Patch Rebates to Lake Oroville Public Utilities District, Thermalito Water and Sewer District and the City of Oroville all met the requirements to receive the rebate. The City of Oroville installed the most patches.

Butte County Air Quality Management District Board

Council Member Bunker had nothing to report.

Appointment of an Alternate for the Supplemental Benefits Fund Steering Committee (SBF)

Scott Huber, City Attorney, recommended that this be continued to the next meeting. Mr. Huber explained that the Supplemental Benefits Fund Steering Committee passed a resolution that Alternates would be selected for each public body in order to conduct business in the event that someone needed to recuse themselves or if a regular Committee member was absent.

Planning Commission Vacancy

Don Rust, Director of Planning and Development Services, reported that Planning Commissioner Chris Lambert has submitted his resignation because he is moving from the City into the County, therefore, there is a vacancy on the Planning Commission.

Veterans Memorial Park Committee

Council Member Bunker reported that the Oroville Republican Women and the Thermalito Grange held a benefit bingo and raised \$1,100. Council Member Bunker requested that a street be named after Staff Sergeant Russell Proctor, Oroville resident, who was killed in action earlier this year.

State Theater Movie

G. Harold Duffey, City Administrator, explained that on August 27, 2011, the City in conjunction with Feather River Cinemas will be showing "Cars 2" at the State Theatre. The movie will be showing at 12 noon, 3:00 p.m. and 6:00 p.m. The Oro Dam Cruisers will have a car show. Oroville Ford will be sponsoring "Explorer Row". The City is also working with Hobbie Motors. Mr. Duffey stated that Cota Cole has purchased 150 tickets for the YMCA and the Boys and Girls Club. Oroville Ford has also purchased one hundred tickets in advance.

Oroville Area Chamber of Commerce

Council Member Pittman reported that Sam Driggers, Redevelopment and Economic Development Manager, was introduced at the meeting.

Appointment to the Loan Advisory Appeals Committee

Council Member Berry announced that the members of the newly formed Loan Advisory Appeals Committee selected by Mayor Dahlmeier are:

Council Member Andoe
Council Member Pittman
Vice Mayor Wilcox

CITY ADMINISTRATOR/ ADMINISTRATION REPORTS

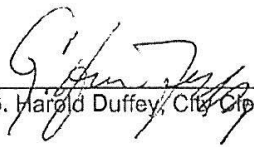
- Butte County City Manager/Administrator's Meeting

G. Harold Duffey, City Administrator, reported that various topics were discussed including the County's Dispensary Ordinance.

CORRESPONDENCE - None

ADJOURNMENT

The meeting was adjourned at 9:39 p.m. A regular meeting of the Oroville City Council will be held on Tuesday, August 16, 2011.


G. Harold Duffey, City Clerk


Linda L. Dahlmeier, Mayor

EXHIBIT 4

**OROVILLE REDEVELOPMENT AGENCY MEETING - MINUTES
AUGUST 2, 2011**

The agenda for the August 2, 2011 regular meeting of the Oroville Redevelopment Agency was posted on the bulletin board at the front of City Hall on Friday, July 29, 2011 at 11:15 a.m.

The August 2, 2011 regular meeting of the Oroville Redevelopment Agency was called to order at 9:39 p.m. by Chairperson Berry.

ROLL CALL

PRESENT: Commissioners Andoe, Bunker, Simpson, Vice Chairperson Pittman, Chairperson Berry
ABSENT: Commissioners Dahlmeier, Wilcox

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS - None

PROCLAMATION / PRESENTATION - None

CONSENT CALENDAR

A motion was made by Commissioner Bunker, seconded by Commissioner Simpson, to approve the following Consent Calendar:

1. **APPROVAL OF THE MINUTES OF THE JULY 19, 2011 REGULAR MEETING OF THE OROVILLE REDEVELOPMENT AGENCY** - minutes attached

The motion to approve the above Consent Calendar was passed by the following vote:

Ayes: Commissioners Andoe, Bunker, Simpson, Vice Chairperson Pittman, Chairperson Berry
Noes: None
Abstain: None
Absent: Commissioners Dahlmeier, Wilcox

PUBLIC HEARING - None

REGULAR BUSINESS

2. **AMENDMENT TO THE FUNDING AGREEMENT BETWEEN THE CITY OF OROVILLE AND THE OROVILLE REDEVELOPMENT AGENCY RELATING TO THE ALLOCATION OF FUTURE TAX INCREMENT REVENUE FOR CAPITAL IMPROVEMENTS, AFFORDABLE HOUSING, GRAFFITI REMOVAL, AND ADMINISTRATIVE OVERHEAD, AND ESTABLISHMENT OF HOUSING AUTHORITY** - staff report

The Commission considered an Amendment to the Funding Agreement between the City of Oroville and the Oroville Redevelopment Agency cancelling the funding for future public capital improvements, affordable housing, graffiti abatement and removal, and administrative overhead.

The Commission also considered voiding the accelerated payback schedule to the City of Oroville, in the amount of \$1,800,000, and the proposed transfer of all Redevelopment Agency assets to the City of Oroville. (Scott E. Huber, City Attorney and G. Harold Duffey, City Administrator)

A motion was made by Commissioner Bunker, seconded by Commissioner Simpson, to:

1. **Adopt Resolution No. 11-24 – A RESOLUTION OF THE OROVILLE REDEVELOPMENT AGENCY AUTHORIZING AND DIRECTING THE CHAIRPERSON TO CANCEL A FUNDING AGREEMENT BETWEEN THE OROVILLE REDEVELOPMENT AGENCY AND THE CITY OF OROVILLE FOR FUTURE PUBLIC CAPITAL IMPROVEMENTS, AFFORDABLE HOUSING, GRAFFITI ABATEMENT AND REMOVAL, AND ADMINISTRATIVE OVERHEAD - (Agreement No. 11-03-1).**
2. **Void the accelerated payback schedule to the City of Oroville \$1,800,000, and return to the previously agreed upon payment schedule.**
3. **Void the proposed transfer of all Redevelopment Agency assets to the City of Oroville.**

The motion was passed by the following vote:

Ayes:	Commissioners Andoe, Bunker, Simpson, Vice Chairperson Pittman, Chairperson Berry
Noes:	None
Abstain:	None
Absent:	Commissioners Dahlmeier, Wilcox

CHAIRPERSON/COMMISSIONERS REPORTS – None

EXECUTIVE DIRECTOR/AGENCY REPORTS – None

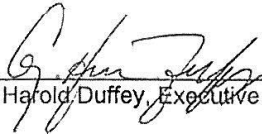
CORRESPONDENCE - None

HEARING OF INDIVIDUALS ON NON-AGENDA ITEMS - None

CLOSED SESSION - None

ADJOURNMENT

The meeting was adjourned at 9:41 p.m. A regular meeting of the Oroville Redevelopment Agency will be held on Tuesday, August 16, 2011.


G. Harold Duffey, Executive Director

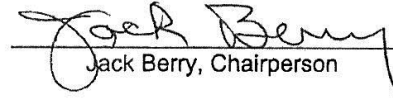

Jack Berry, Chairperson

EXHIBIT 5

**OROVILLE CITY COUNCIL – OROVILLE REDEVELOPMENT AGENCY
SPECIAL JOINT MEETING MINUTES
JANUARY 30, 2012 – 1:00 P.M.**

The agenda for the January 30, 2012 special joint meeting of the Oroville City Council and the Oroville Redevelopment Agency was posted on the bulletin board at the front of City Hall on Thursday, January 26, 2012 at 3:02 p.m.

The January 30, 2012 special joint meeting of the Oroville City Council and the Oroville Redevelopment Agency was called to order by Mayor Dahlmeier at 1:13 p.m.

ROLL CALL

Present: Council Members/Commissioners Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox
Absent: Mayor Dahlmeier (excused)

SPECIAL BUSINESS

1. IMPLEMENTATION OF AB 1X 26 - THE DISSOLUTION ACT – staff report

Council:

The Council considered implementing administrative actions prior to the commencement of AB 1x 26, the Dissolution Act, on February 1, 2012. (Thomas Fitzpatrick, Project Specialist and Diane MacMillan, Director of Finance)

Commission:

The Commission considered adopting an amended Enforceable Obligations Payment Schedule to allow the City of Oroville acting as the future Successor Agency to fund legal obligations. (Thomas Fitzpatrick, Project Specialist and Diane MacMillan, Director of Finance)

Following discussion, a motion was made by Council Member Bunker, seconded by Council Member Simpson, to:

1. **Adopt Resolution No. 7853 - A RESOLUTION OF THE OROVILLE CITY COUNCIL DECLARING A NEED FOR A HOUSING AUTHORITY TO FUNCTION IN THE CITY OF OROVILLE, APPOINTING THE MEMBERS OF THE CITY COUNCIL AS COMMISSIONERS OF THE HOUSING AUTHORITY AND DESIGNATING THE MAYOR AS THE FIRST CHAIR OF THE HOUSING AUTHORITY IN ACCORDANCE WITH THE CALIFORNIA HOUSING AUTHORITY LAW.**

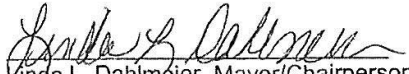
2. Adopt Resolution No. 7854 - A RESOLUTION OF THE CITY OF OROVILLE ACTING AS THE FUTURE SUCCESSOR AGENCY TO EXECUTE AN AMENDMENT TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BROWNFIELDS ASSESSMENT GRANT COOPERATIVE AGREEMENT OBLIGATING THE SUCCESSOR AGENCY TO RETAIN ALL OF THE RIGHTS, POWERS, DUTIES, OBLIGATIONS, AND TERMS AND CONDITIONS PREVIOUSLY PERFORMED BY THE OROVILLE REDEVELOPMENT AGENCY.
3. Adopt Resolution No. 7855 - A RESOLUTION OF THE CITY OF OROVILLE ACTING AS THE FUTURE SUCCESSOR AGENCY AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND.
4. Direct staff to return to the Council with documents that are required to create an Oroville Housing Authority.
5. Authorize the Mayor to appoint two members to the Oversight Board pursuant to Health and Safety Code Section 34179 (a) at the next regular City Council meeting on February 7, 2012.
6. Authorize the payback of the \$1,800,000 City loan no later than January 31, 2012.
7. Approve Supplemental Appropriation #2011/12-0112-38 as indicated in the January 30, 2012 Staff Report.
8. Adopt Resolution No. 11-29 - A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO AB 1X 26.

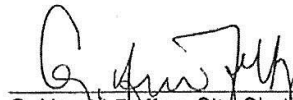
The motion was passed by the following vote:

Ayes:	Council Members/Commissioners Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox
Noes:	None
Abstain:	None
Absent:	Mayor Dahlmeier

ADJOURNMENT

The meeting was adjourned at 2:00 p.m. A regular meeting of the Oroville City Council will be held on Tuesday, February 7, 2012 at 5:00 p.m.


Linda L. Dahlmeier, Mayor/Chairperson


G. Harold Duffey, City Clerk

**State Controller's Office
Division of Audits
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