

APPENDIX B:

PUBLIC COMMENTS

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September ~~29~~¹⁵, 2014

City of San Diego
202 C Street
San Diego, California 92101

Subject: Item 200 FY-2014 HUD CAPER
Comprehensive Annual Performance and Evaluation Report
City Council Hearing of Monday September ~~29~~, 2014.
<http://tinyurl.com/20140915b> 15

Reference: Item S-400 Reinstatement of SA Loan Agreement for Long-Term Miscellaneous Debt
<http://tinyurl.com/20140728a> City Council Hearing July 28, 2014. Attachment D.

Please amend the required HUD FY-2014 Comprehensive Annual Performance and Evaluation Report (CAPER) by amending Page 44 of the CAPER to include the initial balance of HOME funds and the use of the full amount of Program Income (PI) first; a discussion on the San Diego Housing Commission's (SDHC) lack of the use of the newly created HUD HOME Tenant Based Rental Assistance (TBRA) Homeless Vouchers budgeted for \$300,000 to end Veterans and Chronic Homeless by the 2015 deadline; and a discussion on the July 28, 2014 Successor Agency (SA)/City Council Hearing, Item S-400 Reinstatement of SA Loan Agreement for Long-Term Miscellaneous Debt including the outstanding \$144,214,499 balance in HUD Office of Inspector General (OIG) CDBG Program Income that has been reclassified to Inter-Agency LAIF debt and subject to the State LAIF rate.

The CAPER Page 2 states, "*Per HUD guidelines, PI [Program Income] ... must be used first.*" However in Attachment A – CAPER Page 44 the discussion states that there was \$4,158,635 in HOME Program Income (PI), and only \$3,792,943 in PI was spent. When according to HUD Guidelines the full \$4,158,635 in Program Income (PI) should have been used first, before the \$4,309,278 in FY-2014 HUD HOME Allocations, and the \$1,028,445 in HOME Prior Year Reserves.

CAPER Page 46 states: "*In FY-2014, the TBRA [Homeless Voucher] program was on hold due to other funding priorities providing similar assistance to the chronically homeless men, women, and children.*" This is not an acceptable explanation in that there were no similar Homeless Vouchers assistance for the Homeless, and even with \$9,130,666 HOME funds spent in FY-2014, there was still an outstanding Unencumbered balance of \$3,832,631 that could have been used TRBR Homeless Vouchers to meet the Federal HUD Goals of ending Veterans and Chronic Homelessness by 2015. Instead the Federal HUD HOME money went unspent, while over 63 homeless San Diegans died due to a lack of basic Shelter. The Table in Attachment B was created using information at www.hudexchange.com and shows that from March 31, 2013 to June 30, 2014 the County of San Diego Consortium used 375 TBRA homeless vouchers for Foster Youth and Family Reunification, while the same time period the City of San Diego used Zero (0) TBRA Homeless Vouchers. This FY-2015 the SDHC has budgeted \$315,000 for TBRA Homeless Vouchers. Hopefully the TBRA Homeless Voucher program will start without further excuses.

Attachment D shows excerpts from Item S-400 Reinstatement of Successor Agency (S) Loan Agreement for Long-Term Miscellaneous Debt for the City Council Hearing July 28, 2014 <http://tinyurl.com/20140728a>. The City reclassified the outstanding HUD OIG Audit Balance of \$144,214,499 in CDBG Program Income as General Inter-Agency Debt. Please explain the reclassification to HUD.

Regards,

Katheryn Rhodes
371 San Fernando Street, San Diego, California 92106. 619-523-4350 rhodes@laplayaheritage.com

4. Assessments

- a. Detail results of onsite inspections of rental housing.
- b. Describe the HOME jurisdiction's affirmative marketing actions.
- c. Describe outreach to minority and women owned businesses.

Program Year 5 CAPER "HOME/ADDI" Response:

The City received an allocation from HUD of \$4,309,278 in HOME funds for the period of July 1, 2013, through June 30, 2014. Table 8 below shows how the FY 2014 funds were allocated and how much was expended per activity type:

Does not include starting HUD HOME Fund Balance, Allocated/Unspent, or Remaining Unencumbered.

Table 8: FY 2014 HOME Funds Allocation and Expenditure

Activity	FY 2014 Allocation	Funds spent during FY 2014*
Rental Housing Production	\$1,287,087	\$3,821,605
Community Housing Development Organizations (CHDOs)	\$0	
Homebuyer Activities	\$2,180,770	\$4,233,358
Homeowner Rehabilitation	\$411,023	\$121,154
Tenant-Based Rental Assistance	\$300,000	Not Honored \$0
Program Administration	\$130,398	\$954,549
Total	\$4,309,278	\$9,130,666

*Note that the expenditure column reflects funds allocated in previous fiscal years to projects/programs that were active during FY 2014.

In addition to the allocation from HUD, PI of \$4,158,635 was generated during FY 2014, of which \$3,792,943 was disbursed among the programs listed above. Carryover funds from prior years were also expended in FY 2014. Thus, a total of \$9,130,666 in HOME funds was expended in FY 2014.

All of the SDHC's HOME activities serve households with incomes that do not exceed 80 percent of the AMI and concentrate on the households included in the Con Plan's Affordable Housing Priorities listed as "High Priority" and "Medium Priority".

"High Priority" includes households and income groups at 80 percent or below of the AMI who are renters paying over 30 percent of income for housing, homeowners at 50 percent or below of the AMI needing housing rehabilitation, and homeownership assistance to households who are earning 31 to 80 percent of the AMI.

"Medium Priority" includes household and income groups at 51 to 80 percent of the AMI who are homeowners in need of housing rehabilitation, and homeownership assistance to households earning 0 to 30 percent of the AMI.

FY-2014 HUD HOME Funds \$9,130,666 Spent.

\$4,309,278 New FY-2014 HUD Allocation.

\$4,158,635 in Program Income (PI) with \$3,792,943 Spent Program Income.

2014 Draft CAPER \$1,028,445. Prior Year Reserves Spent = \$9,130,666 - \$4,309,278 - \$3,792,943.

July 15, 2014 Item S-500 HUD HOME Fund Balances FY-12/13/14 = \$11,015,240 =

\$7,182,609 Allocated/Unspent + Remaining HUD HOME \$3,832,631 Unencumbered Balance

FEDERAL HUD HOME FUND REPORTS from March 31, 2013 to June 30, 2014.

Attachment B.

Note: Zero (0) New HUD HOME Tenant-Based Rental Assistance (TBRA) Vouchers in City of San Diego.

	March 31, 2013	June 30, 2013	September 30, 2013	December 31, 2013	March 31, 2014	June 30, 2014	
Cumulative Since 1992							\$4,309,278 = \$168,009,099 - \$163,699,821
Allocation Received	\$163,699,821	\$163,699,821	\$163,699,821	\$168,009,099	\$168,009,099	\$168,009,099	
Uncommitted (%)	6%	5%	3%	5%	4%	2%	
Disbursements (%)	91%	91%	92%	90%	91%	93%	
Commitments Only (%)	3%	4%	5%	5%	5%	5%	
Unit Productions Complete	3,737	3,784	3,785	3,831	3,889	3,964	
Rental (%)	43%	42%	42%	42%	42%	42%	
Homeowner Rehab (%)	15%	15%	15%	15%	15%	15%	
Homebuyer (%)	42%	43%	43%	43%	43%	43%	
Total Development Costs (TDC)							
Per Unit							
Rental Projects	\$176,712	\$176,712	\$176,712	\$176,712	\$176,796	\$187,374	
Homeowner Rehab Projects	\$17,525	\$17,525	\$17,538	\$17,538	\$17,565	\$17,573	
Homebuyer Projects	\$181,677	\$184,515	\$184,515	\$187,421	\$189,264	\$190,770	
Net Quarter Increase Units	38	47	1	46	58	75	
Rental (%)	0%	0%	0%	0%	41%	62%	
Homeowner Rehab (%)	8%	0%	100%	0%	10%	1%	
Homebuyer (%)	92%	100%	0%	100%	49%	37%	
New Tenant-Based Rental Assistance (TBRA)	0	0	0	0	0	0	
San Diego County Consortium							
New Tenant-Based Rental Assistance (TBRA)	0	17	0	228	83	47	= 375 1.5 years

New Tenant-Based Rental Assistance (TBRA) not used within City of San Diego limits, but used by the San Diego County Consortium. HUD Integrated Disbursement and Information System (IDIS).

https://www.hudexchange.info/manage-a-program/home-dashboard-reports/?filter_DateYearEach=&filter_State=CA&filter_Grantee=SDCI-CA&program=HOME&group=Dash

FY-2015 County of San Diego Consortium CDBG \$3,513,491 + \$250,000 Program Income + ESG \$245,444. + HOPWA \$ 2,726,216. + HOME \$2,4175,851 = \$2,175,851 new HOME + \$300,000 Program Income HOME = \$368,956 TBRA Foster Youth + \$232,208 TBRA Family Reunification + \$1,357,102 Homebuyer Assistance + \$217,585 Administration + \$300,000 Unencumbered.



THE CITY OF SAN DIEGO

July 30, 2014

Katheryn Rhodes

Via email: Rhodes@laplayaheritage.com

RE: Public Records Act Request dated July 22, 2014
CCPRA 2014-0628

Dear Ms. Rhodes:

This letter is in response to your letter of July 22, 2014 in which, pursuant to the California Public Records Act, you request “clarification on the total amount of Uncommitted HUD HOME Fund Balances for FY-2012 through FY-2015 that is available for new projects right away.” Below are the City of San Diego’s responses to your specific requests, as well as general information about how we can assist you in making a focused and effective request and make any responsive records available to you.

Your Request: **What is the Grand Total for HUD HOME Funds for FY-2012 through FY-2015?**

Response: The City of San Diego keeps a significant number of public records available for searching and viewing online, including the annual HOME budgets and allocations. In response to your first question, please review the FY 2012 through FY 2015 Annual Action Plans available at: <http://www.sandiego.gov/cdbg/general/plansreports.shtml>. These Annual Action Plans will provide you with the total HUD HOME entitlement allocations for the referenced fiscal years.

Your Request: **Exactly how much is already committed to individual ongoing approved projects?**

Response: Attached please find a report from the U.S. Department of Housing and Urban Development - Integrated Disbursement and Information System. It lists the activity status for projects approved to use FY 2012 (Plan Year 2011) through FY 2014 (Plan Year 2013) HOME funds and is up-to-date as of June 30, 2014.

Your Request: **How much is available for new projects right now during FY-2015?**

Response: Please see the FY 2015 HOME budget in the Annual Action Plan (<http://www.sandiego.gov/cdbg/pdf/2014/fy2015conplanfinal.pdf>) at page 237 for the available FY 2015 HOME funds and their anticipated expenditure activities.

Your Request: Can HOME funding be used for Emergency Shelter Tents, Homeless Solutions and Rapid ReHousing?

Response: This request is not sufficiently specific to allow the City to locate the requested records with reasonable effort. The Public Records Act requires production of “identifiable” public records. Cal. Govt. Code § 6253. It does not require an agency to compile data or assist in research. California courts have held that a request for public records must be “focused and specific.” *Rogers v. Superior Court*, 19 Cal. App. 4th 469 (1993). A request is overly broad if the records cannot be located by the agency using “reasonable effort.” *State Board of Equalization v. Superior Court*, 10 Cal. App. 4th 1177, 1186 (1992).

You may wish to review the HOME regulations. A complete copy of the HOME Regulations may be found at: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title24/24cfr92_main_02.tpl. Note section 92.209 discusses the potential eligibility for the use of HOME funds in a tenant-based rental assistance program, which can assist formerly homeless persons.

Your Request: What new projects are coming down the pipeline that would be eligible to apply for HOME funds?

Response: This request is not sufficiently specific to allow the City to locate the requested records with reasonable effort. The Public Records Act requires production of “identifiable” public records. Cal. Govt. Code § 6253. It does not require an agency to compile data or assist in research. California courts have held that a request for public records must be “focused and specific.” *Rogers v. Superior Court*, 19 Cal. App. 4th 469 (1993). A request is overly broad if the records cannot be located by the agency using “reasonable effort.” *State Board of Equalization v. Superior Court*, 10 Cal. App. 4th 1177, 1186 (1992).

General Information:

We will not be able to respond to this request beyond the documents identified above without clarification of the records you seek. Please let us know if we can assist you in narrowing portions of your request or in finding alternatives to obtain the requested information. If you can provide more specific requests for documents, I will forward it to the appropriate offices and give you an updated determination of whether or not we will be able to respond. Please forward any such correspondence to me via email at MMarano@sandiego.gov.

To the extent that you are able to clarify and narrow your request(s) for public records in a manner that allows us to respond using reasonable effort, we reserve the right to withhold disclosure of any otherwise responsive documents to the extent that they are exempt from disclosure under the Public Records Act and/or any applicable legal privilege or doctrine.

Under the rules of the California Public Records Act, we will make responsive documents in our possession available for your review as soon as they are identified and

Rhodes, Katheryn
July 30, 2014
Page 3

compiled, except for records which may be exempt from disclosure under the Act, and portions of your request for which we are requesting clarification, as set forth above.

Sincerely,



Michele Marano
HUD Programs Coordinator
Homeless and Housing Section

Enclosure: (1) HUD – IDIS PR02 Report

cc: Lydia Moreno, Interim Assistant Deputy Director
Sima Thakkar, Program Manager
Michael Reid, Deputy City Attorney

<http://www.sandiego.gov/cdbg/pdf/2014/fy2015conplanfinal.pdf>

Table 94 – HOME Fiscal Year FY-2015 Annual Budgetary Priorities

FY2015 Budget \$9,735,000 = \$4,386,711 + \$2,200,000 + \$3,148,289.

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FY2015 Allocation = \$4,386,711.

Anticipated Program Income = \$2,200,000.

Prior Year Funding = \$3,148,289. or

.

Administration 10% \$885,000

Owner Occupied Rehab 5% \$495,000

Tenant-based Rental Assistance 3% \$315,000

Rental Housing 58% \$5,700,000

Homeownership 24% \$2,340,000

Total 100% \$9,735,000

\$9,893,112 Unencumbered and To Be Determined (TBD) in the SDHC's Affordable Housing Master Plan (AHMP) dated June 9, 2014.

IDIS - PR02

U.S. Department of Housing and Urban Development
 Office of Community Planning and Development
 Integrated Disbursement and Information System
 List of Activities By Program Year And Project
 SAN DIEGO, CA

DATE: 07-30-14
 TIME: 16:00
 PAGE: 1

<http://www.sandiego.gov/cdbg/pdf/2014/fy2015conplanfinal.pdf>

REPORT FOR CPD PROGRAM ALL
 PGM YR ALL

\$8,219,432 HOME Potential Total Available Balance for FY-2015. Minimum HOME Budget Priorities = \$9,735,000 in Budget Priorities.

Plan Year	IDIS Project	Project	IDIS Activity	Activity Name	Activity	Program	Funded Amount	Draw Amount	Balance
2011	12	HOME - Rental Housing Development	6347	COMM-22 Senior Housing	Open	HOME	\$4,190,000.00	\$3,360,000.00	\$830,000.00
			6559	Mesa Commons	Open	HOME	\$2,000,000.00	\$1,995,750.00	\$4,250.00
			6578	Hotel Churchill - 827 C Street	Open	HOME	\$2,900,000.00	\$2,953.13	\$2,897,046.87
2012	14	HOME - Program Administration	6602	HOME Program Administration	Open	HOME	\$445,263.00	\$116,257.29	\$329,005.71
2013	29	HOME - Rental Housing Development	6700	Veterans Village Phase V	Open	HOME	\$1,434,846.00	\$142,280.78	\$1,292,565.22
			6717	Willie James Jones	Open	HOME	\$2,200,000.00	\$1,211,437.43	\$988,562.57
2014	30	HOME - Homeowner Rehab	6693	8032 Beaver Lake Dr-No Int Rehab	Open	HOME	\$20,441.00	\$970.00	\$19,471.00
			6705	5533 Roswell St-No Int Rehab	Open	HOME	\$20,000.00	\$0.00	\$20,000.00
			6714	1635 Bancroft St-No Int Rehab	Open	HOME	\$20,000.00	\$15,910.00	\$4,090.00
			6718	835 So 38th St-No Int Rehab	Open	HOME	\$20,000.00	\$0.00	\$20,000.00
			6650	HOME Program Administration	Open	HOME	\$430,927.80	\$9,690.15	\$421,237.65
			6651	Program Income Administration	Open	HOME	\$407,973.81	\$260,630.89	\$147,342.92
			6730	14680 Via Fiesta #3- 3% Int. Def. Loan & Closing Cost	Open	HOME	\$57,497.00	\$0.00	\$57,497.00
2014	34	San Diego Housing Commission: Homeownership	6731	244 Middlebush Dr.- 3% Int. Def. Loan & Closing Cost	Open	HOME	\$65,710.00	\$0.00	\$65,710.00
			6732	5875 Skyline Dr.- 3% Int. Def. Loan	Open	HOME	\$56,100.00	\$0.00	\$56,100.00
			6728	7311 Jamacha Rd-No Int Rehab	Open	HOME	\$9,730.00	\$0.00	\$9,730.00
			6729	3122 L St-No Int Rehab	Open	HOME	\$20,000.00	\$0.00	\$20,000.00
							\$14,298,489.	\$7,115,880.	\$7,182,609

FY-2014 Annual Action Plan. Appendix G: Project Lists.

\$1,287,087 TBD SDHC Housing Production Programs.

\$2,180,770 TBD SDHC First-Time Homebuyer Program

\$411,023 TBD SDHC Owner-Occupied Housing Rehabilitation.

\$300,000 TBD SDHC Tenant-Based Rental Assistance.= 0 Not honored

Table 94 – HOME Fiscal Year FY-2015 Annual Budgetary Priorities

FY2015 Budget \$9,735,000 = \$4,386,711 + \$2,200,000 + \$3,148,289.

Administration 10% \$885,000 + Owner Occupied Rehab 5% \$495,000

Tenant-based Rental Assistance 3% \$315,000

Rental Housing 58% \$5,700,000 + Homeownership 24% \$2,340,000

Total 100% \$9,735,000 FY-2015 Annual Budget Priorities

\$8,219,342 Potential Total Available Balance = \$3,832,631 FY-2012/13/14 + \$4,386,711 FY-2015.

\$4,386,711 = FY-2015 HOME Program Income.

\$3,832,631 = Available Balance FY-12/13/14 = \$11,015,240 - \$7,182,609= or Prior Year \$3,148,289

\$2,200,000 Anticipated Program Income .

July 15, 2014 Item S-500 HUD HOME Fund Balances FY-12/13/14 = \$11,015,240.

\$3,775,914. Balance. FY-2012 May 10, 2011 Item 336. \$9 million. \$3.2

\$4,007,367. Balance. FY-2013 May 8, 2012 Item 332. \$4.0

\$3,231,959. Balance. FY-2014 April 23, 2013 Item 332.

July 22, 2014

City Clerk
City of San Diego
202 West C Street
San Diego, California 92101

Subject: Public Records Request for More Information Including FY-2015.
Item S-500 HOME Fund Balances FY-2012, FY-2013, and FY-2014.

Under the California Public Records Act we are requesting clarification on the total amount of Uncommitted HUD HOME Fund Balances for FY-2012 through FY-2015 that is available for new projects right away. As documented, Prior Year Home Fund Balances for FY-2012-2013-2014 total \$11,015,239. The current FY-2015 budgeted an additional \$4,386,711 for the HOME program, for a grand total balance of \$15,401,950. During the hearing that the majority of HOME funds has already been committed to ongoing projects who have yet to draw down eligible expenses totaling approximately \$7,305,000 including:

COMM 22 \$800,000; Mesa Commons \$5,000; Veterans Village Phase 5 \$1.4 Million.
Willie James Jones Apartments \$2.2 million; Hotel Churchill \$2.9 million; and several smaller approved projects including Owner Occupied Rehab. Leaving approximately \$3.7 million.

According to our rough calculations Unencumbered HOME Balances total approximately **\$8,096,950** [$\$3,710,239$ Prior Years + $\$4,386,711$ FY-2015 = $\$15,401,950$ Total - $\$7,305,000$ Committed].

Please answer the following questions:

What is the Grand Total for HUD HOME Funds for FY-2012 through FY-2015?

Exactly how much is already committed to individual ongoing approved projects?

How much is available for new projects right now during FY-2015?

What new projects are coming down the pipeline that would be eligible to apply for HOME funds?

Can HOME funding be used for Emergency Shelter Tents, Homeless solutions and Rapid ReHousing?

Regards,

Katheryn Rhodes
619-523-4350
rhodes@laplayaheritage.com

July 28, 2014-Revised

City of San Diego as
 Successor Agency (SA) to the Former Redevelopment Agency (RDA).
 202 C Street
 San Diego, California 92101

Subject: July 28, 2014 Successor Agency (SA)/City Council Hearing on Reinstatement of RDA Debt.
Item S-400 Reinstatement of SA Loan Agreement for Long-Term Miscellaneous Debt
 Category 1: General Debt = TOTAL \$193,759,073 P&I = \$65,795,767 P + \$127,963,306 Interest
 1a. Misc. Inter-Agency LAIF Loans Subtotal \$42,265,551 P&I = \$20,034,682 P + **\$22,230,868** Interest
 1b. Outstanding HUD OIG Audit CDBG Program Income Not Scheduled for Payment
 Subtotal \$151,493,522 P&I = \$45,761,086 P + \$105,732,436 Interest.

Dear City of San Diego:

Please do not approve Items S-400 due to multiple omissions, and reclassification of \$151,493,522 in Outstanding Federal HUD OIG Audit CDBG Program Income as a Inter-Agency Debt [June 21, 2010 Item 203 \$144,214,499 Balance + \$7,279,023 in additional accrued interest]. Instead please send Item S-400 the legal Reinstatement of Long-Term Miscellaneous Successor Agency Loans documents to the City Attorney and Independent Budget Analyst (IBA) for review, corrections, written reports, revised Successor Agency Loan documents, and a new City Council hearing before the next August 6, 2014 Oversight Board hearing. See Appendix A for the January 11, 2011 California Public Records Act (CPRA) response from Janice Weinrick, the Deputy Executive Director of the former Redevelopment Agency (RDA) that confirms the \$144,214,499 outstanding balance in the Federal OIG Audit Debt to CDBG Program Income that was not forgiven, and requires another updated Repayment Schedule.

Item S-400 documents \$193,759,073 Category 1 Long-Term Miscellaneous General debt, consisting of \$65,795,767 [= 1a. \$20,034,682 P + 1b. \$45,761,086 P] in Principle and \$127,963,306 [= 1a. **\$22,230,868** I + 1b. \$105,732,436] in accrued interest. Due to a reclassification of the outstanding Federal HUD OIG Audit Debt to CDBG Program as Local Inter-Agency debt, the full \$127,963,306 in Interest was Recalculated to \$615,264 at the very low 0.228% LAIF rate, for an outstanding Miscellaneous Long Term Debt Balance of in new loan documents totaling \$66,411,031 [= \$65,795,767 Principle + \$615,264 Recalculated Accrued Interest].

In order to separate the Inter-Agency LAIF debt from the Outstanding Federal HUD OIG Audit debt the \$193,759,073 Category 1 Long-Term Miscellaneous General Debt should be divided into Category 1a. \$42,265,551 Miscellaneous Inter-Agency LAIF Loans and 1b. \$151,493,522 Outstanding Federal HUD OIG Audit CDBG Program Income as documented in Table 2. Only the \$22,230,868 Interest in Category 1a. Miscellaneous Inter-Agency LAIF loans are subject to recalculation of accrued interest at the very low 0.228% Local Agency Income Fund (LAIF) rate for City of San Diego Agencies and Departments. The \$105,732,436 Interest in Category 1b. Federal HUD OIG Audit Debt for CDBG Program Income should not be recalculated at the LAIF rate.

The revised and recalculated \$171,635,092 Category 1 Long-Term Miscellaneous General debt, consisting of \$65,795,767 [= 1a. \$20,034,682 P + 1b. \$45,761,086 P] in Principle and \$105,839,325 [= 1a. **\$106,889** I + 1b. \$105,732,436 I] in accrued interest. A difference of \$105,224,061 [= \$171,635,092 - \$66,411,031].

Our preliminary calculations and the fact that the accrued interest in Outstanding Federal HUD OIG Audit Debt to CDBG Program Income is not subject to the Local Inter-Agency LAIF rate, should be verified by Ms. Wanda Nations, Senior Financial Analyst/Accountant, Finance Department, Civic San Diego.

A Legal Opinion from the Deputy City Attorneys (Brant C. Will and Kevin Reisch) is needed on their recategorizing the remaining \$151,493,522 [= \$144,214,499 June 21, 2010 + \$7,279,023 in additional accrued interest] in Federal HUD OIG Audit debt for CDBG Program Income not yet scheduled for Repayment, as Local Agency debt subject to Recalculation of Accrued Interest at the very low Local Agency Income Fund (LAIF) Rate documented in Health and Safety Code 34191.4 (b)(2) for Inter-Agency Loans. Only the \$20,130,463 in Accumulated Interest for Miscellaneous Long-Term Inter-Agency loans is subject to a Recalculation of Accumulated Interest at the very low LAIF rate. The outstanding HUD debt for CDBG Program Income is Federal and not subject to the State Inter-Agency LAIF rate and recalculation of accumulated interest.

The documentation for the important original June 21, 2010 Council/RDA/Successor Agency hearing on Successor Agency debt was not included in the timeline for Previous Council Actions. This is a glaring omission of facts. The following should be added to Previous Council Actions:

- On December 30, 2008 OIG HUD Audit Finding of Misappropriation of CDBG and Section 108 Loans.
- On June 21, 2010 Item 203 – RDA Negotiated Acknowledgement of \$268,597,644 in HUD OIG Audit debt and Inter-Agency loans documented in Table 1 and Appendix B including:

\$228,432,499 in Long-Term Federal HUD OIG Audit Repayment Debt as of July 1, 2009.
= Consisting of \$98,431,640 in Principle and \$130,000,858 in Accrued Interest.
\$268,597,644 = \$223,001,499 Long-Term HUD OIG Audit Debt + \$5,431,000 in Naval Training Center (NTC) Short-Term HUD RDA Loan + \$40,165,145 for Miscellaneous Long-Term Inter-Agency RDA Loans.

Initiate CDBG Repayment Schedule of initial \$78,787,000 Million as part of the acknowledged \$223,001,499 HUD OIG Audit Debt Repayment Agreement, with direction to Staff to return to the City Council to finalize a new Payment Schedules for the remaining \$144,214,499 OIG Audit debt to the poor; \$5,431,000 in NTC Loans, and \$40,165,145 in Inter-Agency LAIF Loans.

The CDBG Repayment Agreement transferred \$3,633,800 from the RDA to the City's CDBG Program for Fiscal Year FY-2010 and \$3,294,500 in Fiscal Year FY- 2011. Leaving an outstanding OIG HUD Audit Balance of **\$216,073,199** = \$223,001,499 - \$3,633,800 - \$3,294,500. Which includes an outstanding balance of \$71,858,700 from the approved Initial \$78,787,000 CDBG Repayment Schedule.

- On February 28, 2011, Item 602 RA-2. Five (5) Categories of Successor Agency debt is acknowledged (see Appendix C Page 5) including: 1-General Debt; 2-NTC HUD Section 108 Loan; 3-City Heights Regional Transportation Center (RTC) HUD Section 108 Loan; 4-HUD OIG Audit Initial CDBG Repayment Agreement; and 5-NTC Site Purchase Cooperation Agreement as today's Item S-401.
- On December 2, 2013 the Successor Agency (SA) received the Finding of Completion (FOC) from the State Department of Finance allowing the Reinstatement of Inter-Agency Loans and Debt including Convention Center and Petco Park.

The Independent Budget Analyst (IBA) should report on the June 21, 2010 Item 203 original \$268,597,644 HUD and Inter-Agency LAIF debts, with an outstanding balance of \$261,669,344 after Repayments as program income to the CDBG funds for FY-2010 (\$3,633,800) and FY-2011 (\$3,294,500).

Today's Item S-400 documents an initial \$9.66 million cap in Modified Terms for Loan Repayments for Reinstated Successor Agency debt, with 20% [\$1.8 million] deposited in the Low Moderate Income Housing Asset Fund (LMIHAF), and the remaining 80% [to various Inter-Agency City Department funds associated with the original Category 1 RDA General Debt. Health and Safety Code Section 34191.4 (b)(2)(B) states:

“(B) Repayments shall first be used to retire any outstanding amounts borrowed and owed to the Low and Moderate Income Housing Fund of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund [SERAF] ...”

Approximately \$67.2 million was transfer to the State for schools as part of the FY-2010 and FY-2011 SERAF payments. Therefore the full \$9.66 million [100%] initial Repayment should be deposited into the LMIHAF.

February 23, 2010 RDA Item 5.

Regards, Katheryn Rhodes **\$67.2 million SERAF = \$55.7 million FY-2010 + \$11.5 million FY-2011.**
 371 San Fernando Street, San Diego, California 92106 619-523-4350
 rhodes@laplayaheritage.com

Attachments:

Appendix A - January 11, 2011 CPRA response from former Redevelopment Agency (RDA) that confirms the \$144,214,499 outstanding balance in the Federal OIG Audit Debt to CDBG Program Income that was not forgiven, and requires another Repayment Schedule.

Appendix B - June 21, 2010 Excerpts Item 203 HUD OIG Audit CDBG Repayment Agreement. Accrued Interest as of July 1, 2009. www.tinyurl.com/20100621

Appendix C – February 28, 2011 Excerpts Item 602 R-2 Miscellaneous Long-Term Debt. Accrued Interest as of June 30, 2010.

Table 1 – June 21, 2010 Item 203 Federal HUD OIG Audit Debt Repayment to CDBG Program Income and NTC Section 108 Loan

Successor Agency DEBT and LOANS	PRINCIPLE 06/21/2010	INTEREST 06/21/2010*	TOTAL 06/21/2010*
OIG Audit CDBG	\$69,249,993	\$99,559,741	\$168,809,734
HUD Section 108 Loans	\$29,181,647	\$30,441,118	\$59,622,765
Total OIG Audit CDBG/108	\$98,431,647	\$130,000,859	\$228,432,499
* June 21, 2010 Item 203-HUD OIG Audit CDBG Repayment - Accrued Interest as of July 1, 2009			
Category 1b- Partial General Debt. 1b. HUD OIG Audit Outstanding \$144 M Need Scheduled Repayment for CDBG Program Income	\$45,761,086	\$98,453,413	\$144,214,499
Category 2-NTC HUD Section 108 Loan.	\$5,431,000	\$0 Not Included	\$5,431,000
Category 4 -HUD OIG Audit Initial \$78M Repayment Agreement for CDBG Program Income			\$78,787,000
TOTAL HUD OIG AUDIT INITIAL CDBG + Outstanding REPAYMENT (Long Term) + NTC 108 (Short-Term)	\$98,431,640	\$130,000,858	\$228,432,499

Table 2 – Category 1: - General RDA Debt

1a. Miscellaneous Long-Term Inter-Agency (LAIF) Debt and 1b. Outstanding HUD OIG Audit Negotiated Settlement as CDBG Program Income

Inter-Agency LAIF DEBT AND LOANS	PRINCIPLE	INTEREST 06/21/2010	SUBTOTAL 06/21/2010	INTEREST 02/28/2011	SUBTOTAL 02/28/2011	INTEREST July 28, 2014	TOTAL July 28, 2014
Category 1A: Inter-Agency LAIF Loans. Long-Term Debt.							
Sales Tax	\$5,040,733	\$5,377,070	\$10,417,803	\$5,638,472	\$10,679,205	\$5,903,110	\$10,943,844
Industrial Dev	\$90,840	\$119,909	\$210,749	\$124,678	\$215,519	\$129,447	\$220,288
EDI Grant	\$720,000	\$820,373	\$1,540,373	\$858,173	\$1,578,173	\$895,973	\$1,615,973
Capital Outlay	\$8,114,229	\$5,511,029	\$13,625,258	\$5,937,027	\$14,051,255	\$6,363,024	\$14,477,252
Sewer Funds	\$613,327	\$502,068	\$1,115,395	\$534,268	\$1,147,595	\$566,467	\$1,179,794
Water Funds	\$357,636	\$291,026	\$648,662	\$309,802	\$667,438	\$328,578	\$686,214
TransNet Prop A	\$1,241,474	\$1,630,786	\$2,872,259	\$1,695,963	\$2,937,437	\$1,761,140	\$3,002,614
General Fund (GF)	\$1,340,990	\$804,739	\$2,145,729	\$875,141	\$2,216,131	\$945,543	\$2,286,533
Route 252	\$2,515,453	\$5,073,463	\$7,588,916	\$5,205,524	\$7,720,977	\$5,337,586	\$7,853,039
1a. LAIF Subtotal	\$20,034,682	\$20,130,463	\$40,165,144	\$21,179,048	\$41,213,730	\$22,230,868	\$42,265,551
*H&S 34191.1 Recalculate \$21,179,048 in Inter-Agency Accumulated Interest using the very low LAIF Rate.							
Category 1B: HUD OIG Audit. Outstanding Balance of CDBG and HUD Section 108 Loans to be Scheduled for Repayment as CDBG Program Income. Long-Term Debt.							
CDBG Outstanding	\$23,938,439			\$69,629,097	\$93,567,536	\$72,999,941	\$96,938,380
HUD Section 108 Loans Outstanding	\$21,822,647			\$31,586,806	\$53,409,453	\$32,732,495	\$54,555,142
1b. HUD OIG Audit CDBG Program Income Subtotal	\$45,761,086	\$98,453,413	\$144,214,499	\$101,215,903	\$146,976,989	\$105,732,436	\$151,493,522
Total Category 1 General Debt. 1a. LAIF and 1b. Unscheduled HUD OIG Audit CDBG Program Income.	\$65,795,767	\$118,583,876	\$184,379,643	\$122,394,952	\$188,190,719	\$127,963,306	\$193,759,073

1a. LAIF Subtotal \$42,265,551 P&I = \$20,034,682 P + \$22,230,86 I.

1b. HUD OIG Audit CDBG Program Income Subtotal \$151,493,522 P&I = \$45,761,086 P + \$105,732,436 I.

Total Category 1 General Debt. 1a. LAIF and 1b. Unscheduled HUD OIG Audit CDBG Program Income.

\$193,759,07 P&I = \$65,795,767 P + \$127,963,306 (I).



THE CITY OF SAN DIEGO

Attachmend D -

APPENDIX A.

January 11, 2011 Prior to the February 1, 2011 RDA Dissolution

Ms. Katheryn Rhodes
371 San Fernando Street
San Diego CA 92106

Via Email: Rhodes@laplayaheritage.com

Dear Ms. Rhodes:

Subject: Public Records Request dated January 11, 2011.
CDBG and HUD Section 108 Debt Forgiveness of \$144,214,499

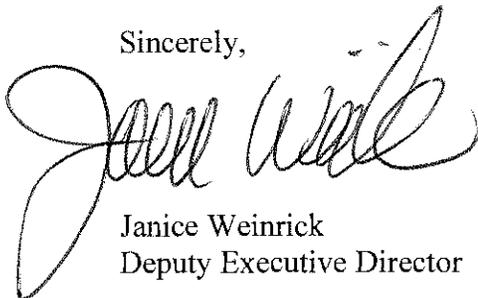
The subject matter for which you are seeking documentation was on the Redevelopment Agency and City Council Docket of June 21, 2010. The subject matter was part of a larger Docket which also included a certain Repayment Agreement of CDBG Debt between the Redevelopment Agency and the City.

The Repayment Agreement of CDBG Debt was developed as a component of a negotiated settlement between HUD and the City. The Repayment Agreement was approved by Council and Agency resolutions on June 21, 2010. Pursuant to the Repayment Agreement, the Redevelopment Agency is repaying \$78,787,000 of CDBG Debt to the City over a 10 year period.

The Debt Forgiveness matter (\$144,214,499), however, was not acted on by the Council or the Agency Board at the hearing and in fact the referenced debt has not been forgiven.

I believe this letter addresses your concern and satisfies your request for public record on this matter.

Sincerely,


Janice Weinrick
Deputy Executive Director

SM



Redevelopment Agency



= \$228,432,499 in Long-&Short-Term Federal OIG Audit HUD Debt + \$40,165,145 Inter-Agency Local LAIF.

1. Federal HUD OIG Audit Repayment Agreement for \$223,001,499 to Long-Term CDBG Program Income.

2. \$5,431,000 NTC Redevelopment Short-Term HUD Loan

AGENDA FOR THE REGULAR COUNCIL MEETING OF

Attachment D

3. \$40,165,145 Inter-Agency RDA

MONDAY, **JUNE 21, 2010, AT 2:00 PM**

Appendix B Page B-1

LAIF Long-Term Loans

CITY ADMINISTRATION BUILDING

COUNCIL CHAMBERS – 12TH FLOOR

www.tinyurl.com/20100621a

202 “C” STREET, SAN DIEGO, CA 92101

\$223,001,499 Long-Term CDBG Program Income = \$78,787,000 Initial Repayment + \$144,214,499 to schedule

ITEM-203: Community Development Block Grant (CDBG) Repayment Agreement, Cessation of Interest Accrual on Agency Debt to the City, Extinguishment of Agency CDBG and HUD Section 108 Debt to the City, and Related Fiscal Year 2010 Budget Amendment. (Barrio Logan, Centre City, City Heights, College Area, Eastern Area, Linda Vista, Mid-City, Midway/Pacific Highway, Peninsula, Old Town, North Park, San Ysidro, and Southeastern San Diego Community Areas. Districts 2, 3, 4, 6, 7, and 8.)

\$228,432,499 HUD CDBG Debt = \$78,787,000 + \$5,431,000 + \$144,214,499.
(See Redevelopment Agency Report No. RA-10-23/RTC-10-062.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem A: (R-2010-863)

Approving the **Repayment Agreement** by and between the Redevelopment Agency of the City of San Diego (Agency), and the City providing the terms for the Agency's repayment of the Community Development Block Grant (CDBG) Debt to the City in the total amount of **\$78,787,000** to be paid in annual payments over a **ten-year term** in accordance with the Repayment Agreement;

Authorizing the Mayor, or designee, on behalf of the City, to execute the Repayment Agreement and any other documents necessary and appropriate to carry out and implement the Repayment Agreement, and to administer the City's obligations, responsibilities and duties to be performed under the Repayment Agreement;

Declaring that all payments pursuant to the Repayment Agreement and any other obligations and indebtedness of the Agency to the City created by the Repayment Agreement shall be subordinate to any bonded indebtedness which has been issued or may be issued by the Agency and shall not be deemed a **first pledge of tax increment allocations** received by the Agency pursuant to California Health and Safety Code Section 33670;

Declaring that the payments received by the City pursuant to the Repayment Agreement shall be used first to make payments to **defease the Mercado del Barrio and Valencia Business Park HUD Section 108 Loan Guarantee Program Loans.**

Subitem B: (R-2010-864)

Declaring that, commencing on July 1, 2009 and continuing thereafter, no interest shall accrue on behalf of the City on any outstanding Long-Term Debt of the Agency to the City.

Declaring that the Agency shall extinguish all outstanding **CDBG and HUD Section 108 Debt owed to the City totaling approximately \$228,432,499**, as follows: (a) the Agency's scheduled repayments of CDBG Debt to the City in the total amount of **\$78,787,000**; (b) the Agency's continued payments to the City according to the established debt repayment schedule for the Naval Training Center CDBG HUD Section 108 Loan with an outstanding approximate balance of **\$5,431,000** as of June 30, 2009, payable from the Naval Training Center Redevelopment

REPAYMENT IS HUD CDBG PROGRAM INCOME AS PART OF NEGOTIATED SETTLEMENT Documented in our Consolidated Plan, Annual Action Plans, and Federal HUD Documentation on the OIG Audit with confirmed Misappropriation of \$228 Million in the Federal HUD OIG Audit Repayment Agreement from RDA/CCDC to City as Federal CDBG Program Income for justice for the poor.

Response to Ms. Rhodes letter dated September 15, 2014

Reference: Item S-400 Reinstatement of SA Loan Agreement for Long-Term Miscellaneous Debt

COMMENT 1:

Please amend the required HUD FY-2014 Comprehensive Annual Performance and Evaluation Report (CAPER) by amending Page 44 of the CAPER to include the initial balance of HOME funds and the use of the full amount of Program Income (PI) first; a discussion on the San Diego Housing Commission's (SDHC) lack of the use of the newly created HUD HOME Tenant Based Rental Assistance (TBRA) Homeless Vouchers budgeted for \$300,000 to end Veterans and Chronic Homeless by the 2015 deadline; and a discussion on the July 28, 2014 Successor Agency (SA)/City Council Hearing, Item S-400 Reinstatement of SA Loan Agreement for Long-Term Miscellaneous Debt including the outstanding \$144,214,499 balance in HUD Office of Inspector General (OIG) CDBG Program Income that has been reclassified to Inter-Agency LAIF debt and subject to the State LAIF rate.

The CAPER Page 2 states, "Per HUD guidelines, PI [Program Income] ... must be used first. However in Attachment A – CAPER Page 44 the discussion states that there was \$4,158,635 in HOME Program Income (PI), and only \$3,792,943 in PI was spent. When according to HUD Guidelines the full \$4,158,635 in Program Income (PI) should have been used first, before the \$4,309,278 in FY-2014 HUD HOME Allocations, and the \$1,028,445 in HOME Prior Year Reserves.

CAPER Page 46 states: "In FY-2014, the TBRA [Homeless Voucher] program was on hold due to other funding priorities providing similar assistance to the chronically homeless men, women, and children." This is not an acceptable explanation in that there were no similar Homeless Vouchers assistance for the Homeless, and even with \$9,130,666 HOME funds spent in FY-2014, there was still an outstanding Unencumbered balance of \$3,832,631 that could have been used TBRA Homeless Vouchers to meet the Federal HUD Goals of ending Veterans and Chronic Homelessness by 2015. Instead the Federal HUD HOME money went unspent, while over 63 homeless San Diegans died due to a lack of basic Shelter. The Table in Attachment B was created using information at www.hudexchange.com and shows that from March 31, 2013 to June 30, 2014 the County of San Diego Consortium used 375 TBRA homeless vouchers for Foster Youth and Family Reunification, while the same time period the City of San Diego used Zero (0) TBRA Homeless Vouchers. This FY-2015 the SDHC has budgeted \$315,000 for TBRA Homeless Vouchers. Hopefully the TBRA Homeless Voucher program will start without further excuses.

The San Diego Housing Commission (SDHC) has received from the City of San Diego the written comments provided by Ms. Kathryn Rhodes during the public comment period that ended on September 17, 2014, for the Fiscal Year 2014 Comprehensive Annual Performance and Evaluation Report (CAPER).

San Diego Housing Commission Response: The SDHC is not suggesting revisions to the CAPER at this time.

Information regarding the Fiscal Year 2014 initial budget for U.S. Department of Housing and Urban Development programs in the City of San Diego is available on the City of San Diego's website. Ms. Rhodes should be directed to the Fiscal Year 2014 Annual Action Plan: <http://www.sandiego.gov/cdbg/pdf/fy14cdbggaap.pdf>.

COMMENT 2:

Attachment D shows excerpts from Item S-400 Reinstatement of Successor Agency (S) Loan Agreement for Long-Term Miscellaneous Debt for the City Council Hearing July 28, 2014. The City re-classified the outstanding HUD OIG Audit Balance of \$144,214,499 in CDBG Program Income as General Inter Agency Debt. Please explain the reclassification to HUD.

City of San Diego Response: In accordance with the Office of the Inspector General recommendation in the December 2008 audit of the City's CDBG program, the City, Agency and HUD reached an agreement regarding the repayment of CDBG funds recorded as debt from the Agency to the City. The terms of this agreement, memorialized in the CDBG Loan Repayment Agreement, include the repayment of \$78.8 million from the Agency to the City over the next 10 years, and the treatment of all repayment funds by the City as CDBG program income.

John W. Stump
Brown Building
4133 Poplar
City Heights, California 92105
jwstump@cox.net 619-281-4688

September 15, 2014

City of San Diego
By Email to: Cityclerk@sandiego.gov cityattorney@sandiego.gov
C/O: Ms. Elizabeth Maland, City Clerk
CDBG Administration
202 C Street
San Diego, California 92101

CDBG Administration By Email to: CDBG@sandiego.gov
City of San Diego
1200 Third Avenue
Suite 1400, MS 56D
San Diego, CA 92101

RE: Comment on Consolidated Annual Performance & Evaluation Reports (CAPER)

Dear Honorable Council and Mayor and CDBG Administrators,

I am commenting on the draft **Consolidated Annual Performance Evaluation Reports (CAPER)**, which is out for public comment., which is open until September 16, 2014.

My comments concern the review of the draft CAPER by the responsible Legislative body prior to receipt of the public comments and at a meeting whose legality under the California Public Meetings Act has been called into question.

I am requesting that the draft **Consolidated Annual Performance Evaluation Reports (CAPER)** be redocketed with the San Diego City Council after the close of public comment period for this report. The responsible Legislative body should have the benefit of receiving and reviewing all public comments before receiving and considering this report. Absent a docket action review of this report, after the close of the public comment period closes, the Council can not have performed its due diligence oversight of this project. As you are aware, our City Charter establishes a co equal Strong Council /Strong Mayor system of government.

Additionally, immediately following the CAPER information item, the elected City Attorney appeared at City Council and raised serious questions concerning the Open Meeting practices of the Council based on existing policies which limit and restrict open public comment at Council..

I hope that you will take the suggested remedial actions concerning this year and that your planning calendar for next year will be changed to schedule presentation of the CAPER and other important CDBG plans and documents, at a Council meeting after the public has had the full period to inform elected officials of their concerns or praise for the program. I was struck by the disproportionately large grant being made to the La Maistra program given its location, so far away from the medical needs of the Downtown homeless population that line those streets.

I look forward to receipt of CDBG staff's written response to these two comments of concern and suggestion for next year. I request that the CAPER not be finalized until receipt of these written response and the opportunity for the responsible Legislative body to consider them.

Respectfully submitted,
/s/
John W. Stump

Response to Mr. Stump letter dated September 15, 2014

Response:

In accordance with the Consolidated Plan Regulations, 24 CFR Section 91.105, the City of San Diego “is required to adopt a citizen participation plan that sets forth the jurisdiction's policies and procedures for citizen participation.” Through the City’s [FY 2010 – FY 2014 Consolidated Plan](#), the City committed itself to holding public hearings during the 30-day public comment periods for the Consolidated Plan and Action Plan and the City has honored said commitments.

The FY 2014 Draft CAPER was presented and discussed during a public hearing held by the Consolidated Plan Advisory Board on September 10 and a City Council public hearing held on September 15. Please note that FY 2014 Draft CAPER was properly noticed as in the [September 15th City Council Agenda](#) and please refer to Appendix A of this report for the proofs of publications of other notices related to the draft FY 2014 CAPER.

Other comments are acknowledged.

Response to Mr. Daniel Beaman
City Council Hearing, September 15 2014

Comments –paraphrased:

The funds are not being spent as quickly as they should have been and we have gotten in trouble in the past.

We need housing. We need to look at very low income people for housing purposes. Look at Sherman Heights in Barrio Logan – houses, sidewalks and streets are not being maintained.

Response:

Please note that the City has met its timeliness requirements for the expenditures of entitlement funds referenced in this report since FY 2012.
Other comments are acknowledged.

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