

## **PERSONAL SERVICES AGREEMENT**

THIS AGREEMENT is made, entered into, and shall become effective this 10<sup>th</sup> day of September, 2012, by and between the Successor Agency to the San Juan Capistrano Community Redevelopment Agency (hereinafter referred to as the "Successor Agency") and Macias, Gini & O'Connell, LLP (hereinafter referred to as the "Consultant").

### **RECITALS:**

WHEREAS, Successor Agency desires to retain the services of Consultant regarding the Successor Agency's proposal to provide due diligence review services for the former redevelopment agency's low and moderate income housing funds as required by California Health and Safety Code Section 34179.5; and

WHEREAS, Consultant is qualified by virtue of experience, training, education and expertise to accomplish such services.

NOW, THEREFORE, Successor Agency and Consultant mutually agree as follows:

#### **Section 1. Scope of Work.**

The scope of work to be performed by the Consultant shall consist of those tasks as set forth in Exhibit "A," attached and incorporated herein by reference. To the extent that there are any conflicts between the provisions described in Exhibit "A" and those provisions contained within this Agreement, the provisions in this Agreement shall control.

#### **Section 2. Term.**

This Agreement shall commence on the effective date and shall terminate, and all services required hereunder shall be completed, no later than October 1, 2012.

#### **Section 3. Compensation.**

##### **3.1 Amount.**

Total compensation for the services, including any and all out-of-pocket costs, shall not exceed \$19,000 total.

##### **3.2 Method of Payment.**

Subject to Section 3.1, Consultant shall submit monthly invoices based on total services which have been satisfactorily completed for such monthly period. The Successor Agency will pay monthly progress payments based on approved invoices in accordance with this Section.

### **3.3 Records of Expenses.**

Consultant shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to the Successor Agency. Invoices shall be addressed as provided for in Section 16 below.

### **Section 4. Independent Contractor.**

It is agreed that Consultant shall act and be an independent contractor and not an agent or employee of the Successor Agency, and shall obtain no rights to any benefits which accrue to Agency's employees.

### **Section 5. Limitations Upon Subcontracting and Assignment.**

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the Successor Agency to enter into this Agreement. Consultant shall not contract with any other entity to perform the services required without written approval of the Successor Agency. This Agreement may not be assigned, voluntarily or by operation of law, without the prior written approval of the Successor Agency. If Consultant is permitted to subcontract any part of this Agreement by Successor Agency, Consultant shall be responsible to the Successor Agency for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and Successor Agency. All persons engaged in the work will be considered employees of Consultant. Successor Agency will deal directly with and will make all payments to Consultant.

### **Section 6. Changes to Scope of Work.**

For extra work not part of this Agreement, a written authorization from Successor Agency is required prior to Consultant undertaking any extra work. In the event of a change in the Scope of Work provided for in the contract documents as requested by the Successor Agency, the Parties hereto shall execute an addendum to this Agreement setting forth with particularity all terms of the new agreement, including but not limited to any additional Consultant's fees.

### **Section 7. Familiarity with Work and/or Construction Site.**

By executing this Agreement, Consultant warrants that: (1) it has investigated the work to be performed; (2) if applicable, it has investigated the work site(s), and is aware of all conditions there; and (3) it understands the facilities, difficulties and restrictions of the work to be performed under this Agreement. Should Consultant discover any latent or unknown conditions materially differing from those inherent in the work or as represented by Successor Agency, it shall immediately inform the Successor Agency of this and shall not proceed with further work under this Agreement until written instructions are received

from the Successor Agency.

**Section 8. Time of Essence.**

Time is of the essence in the performance of this Agreement.

**Section 9. Compliance with Law.**

Consultant shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local government.

**Section 10. Conflicts of Interest.**

Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services contemplated by this Agreement. No person having such interest shall be employed by or associated with Consultant.

**Section 11. Copies of Work Product.**

At the completion of the work, Consultant shall have delivered to Successor Agency at least one (1) copy of any final report issued will be submitted to the Successor Agency in reproducible format, or in the format otherwise approved by the Successor Agency in writing.

**Section 12. Ownership of Documents.**

All reports, information, data and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential to the extent permitted by law, and Consultant agrees that they shall not be made available to any individual or organization without prior written consent of the Successor Agency. The Successor Agency acknowledges such documents are instruments of Consultant's professional services.

**Section 13. Indemnity.**

To the fullest extent permitted by law, Consultant agrees to protect, defend, and hold harmless the Successor Agency and its elective and appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of Consultant, Consultant's agents, officers, employees, subcontractors, or independent contractors hired by Consultant in the performance of the Agreement. The only exception to Consultant's responsibility to protect, defend, and hold harmless the Successor Agency, is due to the negligence, recklessness and/or wrongful conduct of the Successor Agency, or any of its

elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

#### **Section 14. Insurance.**

On or before beginning any of the services or work called for by any term of this Agreement, Consultant, at its own cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the Successor Agency, the insurance specified below with insurers and under forms of insurance satisfactory in all respects to the Successor Agency. Consultant shall not allow any subcontractor to commence work on any subcontract until all insurance required of the Consultant has also been obtained for the subcontractor. Insurance required herein shall be provided by Insurers in good standing with the State of California and having a minimum Best's Guide Rating of A- Class VII or better.

##### **14.1 Comprehensive General Liability.**

Throughout the term of this Agreement, Consultant shall maintain in full force and effect Comprehensive General Liability coverage in an amount not less than one million dollars per occurrence (\$1,000,000.00), combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this agreement or the general aggregate limit shall be at least twice the required occurrence limit.

##### **14.2 Comprehensive Automobile Liability.**

Throughout the term of this Agreement, Consultant shall maintain in full force and effect Comprehensive Automobile Liability coverage, including owned, hired and non-owned vehicles in an amount not less than one million dollars per occurrence (\$1,000,000.00).

##### **14.3 Workers' Compensation.**

If Consultant intends to employ employees to perform services under this Agreement, Consultant shall obtain and maintain, during the term of this Agreement, Workers' Compensation Employer's Liability Insurance in the statutory amount as required by state law.

##### **14.4 Proof of Insurance Requirements/Endorsement.**

Prior to beginning any work under this Agreement, Consultant shall submit

the insurance certificates, including the deductible or self-retention amount, and an additional insured endorsement naming Successor Agency, its officers, employees, agents, and volunteers as additional insured as respects each of the following: Liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired, or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded Successor Agency, its officers, employees, agents, or volunteers.

#### **14.5 Errors and Omissions Coverage**

Throughout the term of this Agreement, Consultant shall maintain Errors and Omissions Coverage (professional liability coverage) in an amount of not less than One Million Dollars (\$1,000,000). Prior to beginning any work under this Agreement, Consultant shall submit an insurance certificate to the Successor Agency's General Counsel for certification that the insurance requirements of this Agreement have been satisfied.

#### **14.6 Notice of Cancellation/Termination of Insurance.**

The above policy/policies shall not terminate, nor shall they be cancelled, nor the coverages reduced, until after thirty (30) days' written notice is given to Successor Agency, except that ten (10) days' notice shall be given if there is a cancellation due to failure to pay a premium.

#### **14.7 Terms of Compensation.**

Consultant shall not receive any compensation until all insurance provisions have been satisfied.

#### **14.8 Notice to Proceed.**

Consultant shall not proceed with any work under this Agreement until the Successor Agency has issued a written "Notice to Proceed" verifying that Consultant has complied with all insurance requirements of this Agreement.

### **Section 15. Termination.**

Successor Agency shall have the right to terminate this Agreement without cause by giving thirty (30) days' advance written notice of termination to Consultant.

In addition, this Agreement may be terminated by any party for cause by providing ten (10) days' notice to the other party of a material breach of contract. If the other party does not cure the breach of contract, then the agreement may be terminated subsequent to the ten (10) day cure period.

**Section 16. Notice.**

All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process:

To Successor Agency: City of San Juan Capistrano  
32400 Paseo Adelanto  
San Juan Capistrano, CA 92675  
Attn: Cynthia Russell, Finance Officer

To Consultant: Macias, Gini & O'Connell, LLP  
4675 MacArthur Court, Suite 600  
Newport Beach, CA 92660  
Attn.: Katherine V. Lai

**Section 17. Attorneys' Fees.**

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which he may be entitled.

**Section 18. Dispute Resolution.**

In the event of a dispute arising between the parties regarding performance or interpretation of this Agreement, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service ("JAMS").

**Section 19. Entire Agreement.**

This Agreement constitutes the entire understanding and agreement between the parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

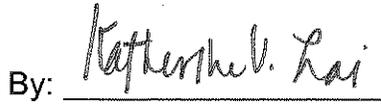
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

CITY OF SAN JUAN CAPISTRANO

By:   
Karen P. Brust, Executive Director

CONSULTANT

By:   
Katherine V. Lai, Partner

ATTEST:

  
Maria Morris, Agency Secretary

APPROVED AS TO FORM:

  
Hans Van Ligen, Agency Attorney



September 5, 2012

Cindy Russell  
Chief Financial Officer/City Treasurer  
Successor Agency to the Community Redevelopment Agency  
of the City of San Juan Capistrano, California  
San Juan Capistrano, California

We are pleased to present our understanding of the nature and limitations of the services we are to provide for the Successor Agency to the Community Redevelopment Agency of the City of San Juan Capistrano, California (Successor Agency), regarding the "Due Diligence Review" of the Low and Moderate Income Housing Fund(s) of the Successor Agency required under Section 34179.5 of the Health and Safety Code (Code). The Due Diligence Review of all other funds of the Successor Agency, excluding the Low and Moderate Income Housing Fund(s), also required under Code Section 34179.5, will be covered under a separate engagement letter.

We will apply agreed-upon procedures on the Successor Agency's Low and Moderate Income Housing Fund(s), which the Successor Agency, the California State Controller's Office (SCO), and the California State Department of Finance (DOF) (collectively referred to as the Specified Parties) have specified, as listed in Attachment A, solely to assist the Specified Parties in determining the amount of cash and cash equivalents available for allocation to taxing entities, as prescribed in Section 34179.5 of the Code. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures, either for the purpose for which this report has been requested, or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures do not constitute an examination, we will not express an opinion on the amount of cash and cash equivalents available for allocation to taxing entities or other financial information presented. In addition, we have no obligation to perform any procedures beyond those agreed-upon procedures.

We will submit a report listing the procedures performed and our findings on the Successor Agency's Low and Moderate Income Housing Fund(s). This report is intended solely for the use of the Specified Parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The Successor Agency is responsible for determining the amount of cash and cash equivalents available for allocation to taxing entities in accordance with the Section 34179.5 of the Code. The criteria and attached procedures to be performed on the Successor Agency's Low and Moderate Income Housing Fund(s) are based on the requirements under Section 34179.5 of the Code, as interpreted by the SCO and DOF. The Specified Parties have determined that such criteria are appropriate for purposes of satisfying the requirements of Section 34179.5 of the Code. The Successor Agency is also responsible for making all management decisions and performing all management functions.

Katherine V. Lai is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

We plan to begin our procedures for the Low and Moderate Income Housing Fund of the Successor Agency on September 10, 2012, and to issue the report for these procedures by October 1, 2012. At the conclusion of this engagement, we will require a representation letter from management of the Successor Agency that, among other things, will confirm management's responsibility for the presentation of the amount of cash and cash equivalents available for allocation to taxing entities.

Our fees for the services noted will be based on the level of effort to complete and our standard hourly rates. For the procedures to be performed on the Low and Moderate Income Housing Fund(s) of the Successor Agency, and the related report, we estimate that our fees for these services will not exceed \$19,000. A schedule of our estimated fees is summarized in Attachment B. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Our invoices for these fees will be rendered each month as work progresses and are payable upon presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more past due and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

Very truly yours,

MACIAS GINI & O'CONNELL LLP



Katherine V. Lai, CPA  
*Partner*

RESPONSE:

This letter correctly sets forth the understanding regarding the procedures to be performed on the Low and Moderate Income Housing Fund(s) of the Successor Agency to the Community Redevelopment Agency of the City of San Juan Capistrano, California.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**List of Agreed-Upon Procedures for Due Diligence Review  
of the Low and Moderate Income Housing Fund(s)**

**General information regarding these procedures:**

1. The procedures associated with Sections 34179.5(c)(1) through 34179.5(c)(3) and Sections 34179.5(c)(5) through 34179.5(c)(6) are to be applied to the Low and Moderate Income Housing Fund(s) of the Successor Agency (Low/Mod Fund).
2. The due date for the report associated with the Low/Mod Fund is October 1, 2012.

Fiscal year references below refer to fiscal years ending on June 30. This language should be modified for those agencies that have a different fiscal year-end.

For purposes of the procedures below and the related exhibits, the amount of the assets presented should be based upon generally accepted accounting principles (GAAP), unless otherwise noted.

To the extent the procedures listed below are duplicative to the agreed upon procedures that were performed pursuant to HSC 34182 (a)(1), it is acceptable to obtain and use information from the HSC 34182 (a)(1) procedures for purposes of this due diligence review without having to re-perform the procedures. When this is done, the due diligence report should refer to the report that was issued for the agreed upon procedures performed under HSC 34182 (a)(1).

Certain assets may qualify as a deduction under more than one category of deduction. In such cases, care should be taken to ensure that such assets have been included as a deduction in the summary schedule only once.

**Citation:**

*34179.5(c)(1) The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012.*

**Procedure:**

1. Obtain from the Successor Agency a listing of all assets that were transferred from the former redevelopment agency to the Successor Agency's Low/Mod Fund on February 1, 2012. Agree the amounts on this listing to account balances established in the accounting records of the Successor Agency. Identify in the Agreed-Upon Procedures (AUP) report the amount of the assets transferred to the Successor Agency's Low/Mod Fund as of that date.

**Citation:**

*34179.5(c)(2) The dollar value of assets and cash and cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to the city, county, or city and county that formed the redevelopment agency and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.*

**Procedures:**

2. If the State Controller's Office has completed its review of transfers from the Low/Mod Fund required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report. If this has not yet occurred, perform the following procedures:

- A. Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the former redevelopment agency's Low/Mod Fund to the city, county, or city and county that formed the redevelopment agency for the period from January 1, 2011 through January 31, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.
- B. Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency's Low/Mod Fund to the city, county, or city and county that formed the redevelopment agency for the period from February 1, 2012 through June 30, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.
- C. For each transfer, obtain the legal document that formed the basis for the enforceable obligation that required any transfer. Note in the AUP report the absence of any such legal document or the absence of language in the document that required the transfer.

**Citation:**

*34179.5(c)(3) The dollar value of any cash or cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to any other public agency or private party and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.*

**Procedures:**

3. If the State Controller's Office has completed its review of transfers from the Low/Mod Fund required under both Sections 34167.5 and 34178.8 and issued its report regarding such review, attach a copy of that report as an exhibit to the AUP report. If this has not yet occurred, perform the following procedures:
  - A. Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the former redevelopment agency's Low/Mod Fund to any other public agency or to private parties for the period from January 1, 2011 through January 31, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.
  - B. Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from the Successor Agency's Low/Mod Fund to any other public agency or private parties for the period from February 1, 2012 through June 30, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.
  - C. For each transfer, obtain the legal document that formed the basis for the enforceable obligation that required any transfer. Note in the AUP report the absence of any such legal document or the absence of language in the document that required the transfer.

**Citation:**

*34179.5(c)(4) The review shall provide expenditure and revenue accounting information and identify transfers and funding sources for the 2010–11 and 2011–12 fiscal years that reconciles balances, assets, and liabilities of the successor agency on June 30, 2012 to those reported to the Controller for the 2009–10 fiscal year.*

**Procedures:**

4. This procedure is not applicable to the report on the Successor Agency's Low/Mod Fund.

**Citation:**

*34179.5(c)(5) A separate accounting for the balance for the Low and Moderate Income Housing Fund for all other funds and accounts combined shall be made as follows:*

*(A) A statement of the total value of each fund as of June 30, 2012.*

**Procedure:**

5. Obtain from the Successor Agency a listing of all assets of the Low/Mod Fund as of June 30, 2012. The schedule will include only those assets of the Low/Mod Fund that were held by the Successor Agency as of June 30, 2012, and will exclude all assets held by the entity that assumed the housing function previously performed by the former redevelopment agency. Agree the assets so listed to recorded balances reflected in the accounting records of the Successor Agency. The listings should be attached as an exhibit to the AUP report.

**Citation:**

*34179.5(c)(5)(B) An itemized statement listing any amounts that are legally restricted as to purpose and cannot be provided to taxing entities. This could include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use.*

**Procedures:**

6. Obtain from the Successor Agency a listing of asset balances in the Low/Mod Fund held on June 30, 2012, that are restricted for the following purposes:
  - A. Unspent bond proceeds:
    - i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures, amounts set aside for debt service payments, etc.)
    - ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
    - iii. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.
  - B. Grant proceeds and program income that are restricted by third parties:
    - i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
    - ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).

- iii. Obtain from the Successor Agency a copy of the grant agreement that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by the Successor Agency as restricted.
- C. Other assets considered to be legally restricted:
- i. Obtain the Successor Agency's computation of the restricted balances (e.g., total proceeds less eligible project expenditures).
  - ii. Trace individual components of this computation to related account balances in the accounting records, or to other supporting documentation (specify in the AUP report a description of such documentation).
  - iii. Obtain from the Successor Agency a copy of the legal document that sets forth the restriction pertaining to these balances. Note in the AUP report the absence of language restricting the use of the balances that were identified by Successor the Agency as restricted.
- D. Attach the above mentioned Successor Agency prepared schedule(s) as an exhibit to the AUP report. For each restriction identified on these schedules, indicate in the report the period of time for which the restrictions are in effect. If the restrictions are in effect until the related assets are expended for their intended purpose, this should be indicated in the report.

**Citation:**

*34179.5(c)(5)(C) An itemized statement of the values of any assets that are not cash or cash equivalents. This may include physical assets, land, records, and equipment. For the purpose of this accounting, physical assets may be valued at purchase cost or at any recently estimated market value. The statement shall list separately housing-related assets.*

**Procedures:**

7. Perform the following procedures:
- A. Obtain from the Successor Agency a listing of assets in the Low/Mod Fund as of June 30, 2012, that are **not** liquid or otherwise available for distribution (such as capital assets, land held for resale, long-term receivables, etc.) and ascertain if the values are listed at either purchase cost (based on book value reflected in the accounting records of the Successor Agency) or market value as recently estimated by the Successor Agency.
  - B. If the assets listed at 7(A) are listed at purchase cost, trace the amounts to a previously audited financial statement (or to the accounting records of the Successor Agency) and note any differences.
  - C. For any differences noted in 7(B), inspect evidence of disposal of the asset and ascertain that the proceeds were deposited into the Successor Agency trust fund. If the differences are due to additions (this generally is not expected to occur), inspect the supporting documentation and note the circumstances.
  - D. If the assets listed at 7(A) are listed at recently estimated market value, inspect the evidence (if any) supporting the value and note the methodology used. If no evidence is available to support the value and/or methodology, note the lack of evidence.

**Citation:**

34179.5(c)(5)(D) *An itemized listing of any current balances that are legally or contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation. In addition, the successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. If a review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations.*

**Procedures:**

## 8. Perform the following procedures:

- A. If the Successor Agency believes that asset balances in the Low/Mod Fund need to be retained to satisfy enforceable obligations, obtain from the Successor Agency an itemized schedule of asset balances (resources) in the Low/Mod Fund as of June 30, 2012, that are dedicated or restricted for the funding of enforceable obligations and perform the following procedures. The schedule should identify the amount dedicated or restricted, the nature of the dedication or restriction, the specific enforceable obligation to which the dedication or restriction relates, and the language in the legal document that is associated with the enforceable obligation that specifies the dedication of existing asset balances toward payment of that obligation.
  - i. Compare all information on the schedule to the legal documents that form the basis for the dedication or restriction of the resource balance in question.
  - ii. Compare all current balances to the amounts reported in the accounting records of the Successor Agency or to an alternative computation.
  - iii. Compare the specified enforceable obligations to those that were included in the final Recognized Obligation Payment Schedule approved by the California Department of Finance.
  - iv. Attach as an exhibit to the report the listing obtained from the Successor Agency. Identify in the report any listed balances for which the Successor Agency was unable to provide appropriate restricting language in the legal document associated with the enforceable obligation.
- B. If the Successor Agency believes that future revenues, together with balances dedicated or restricted to an enforceable obligation, are insufficient to fund future obligation payments and thus retention of current balances in the Low/Mod Fund is required, obtain from the Successor Agency a schedule of approved enforceable obligations that includes a projection of the annual spending requirements to satisfy each obligation and a projection of the annual revenues available to fund those requirements and perform the following procedures:
  - i. Compare the enforceable obligations to those that were approved by the California Department of Finance. Procedures to accomplish this may include reviewing the letter from the California Department of Finance approving the Recognized Enforceable Obligation Payment Schedules for the six month period from January 1, 2012 through June 30, 2012 and for the six month period July 1, 2012 through December 31, 2012.

- ii. Compare the forecasted annual spending requirements to the legal document supporting each enforceable obligation.
    - a. Obtain from the Successor Agency its assumptions relating to the forecasted annual spending requirements and disclose in the report major assumptions associated with the projections.
  - iii. For the forecasted annual revenues:
    - a. Obtain from the Successor Agency its assumptions for the forecasted annual revenues and disclose in the report major assumptions associated with the projections.
- C. If the Successor Agency believes that projected property tax revenues and other general purpose revenues to be received by the Successor Agency are insufficient to pay bond debt service payments (considering both the timing and amount of the related cash flows), obtain from the Successor Agency a schedule demonstrating this insufficiency and apply the following procedures to the information reflected in that schedule.
- i. Compare the timing and amounts of bond debt service payments to the related bond debt service schedules in the bond agreement.
  - ii. Obtain the assumptions for the forecasted property tax revenues and disclose major assumptions associated with the projections.
  - iii. Obtain the assumptions for the forecasted other general purpose revenues and disclose major assumptions associated with the projections.
- D. If procedures A, B, or C were performed, calculate the amount of current unrestricted balances in the Low/Mod Fund necessary for retention in order to meet the enforceable obligations by performing the following procedures.
- i. Combine the amount of identified current dedicated or restricted balances and the amount of forecasted annual revenues to arrive at the amount of total resources available to fund enforceable obligations.
  - ii. Reduce the amount of total resources available by the amount forecasted for the annual spending requirements. A negative result indicates the amount of current unrestricted balances that needs to be retained.
  - iii. Include the calculation in the AUP report.

**Citation:**

*34179.5(c)(5)(E) An itemized list and analysis of any amounts of current balances that are needed to satisfy obligations that will be placed on the Recognized Obligation Payment Schedules for the current fiscal year.*

**Procedure:**

9. If the Successor Agency believes that cash balances in the Low/Mod Fund as of June 30, 2012, need to be retained to satisfy obligations on the Recognized Obligation Payment Schedule (ROPS) for the period of July 1, 2012 through June 30, 2013, obtain a copy of the final ROPS for the period of July 1, 2012 through December 31, 2012 and a copy of the final ROPS for the period January 1, 2013 through June 30, 2013. For each obligation listed on the ROPS, the Successor Agency should add columns identifying (1) any dollar amounts of existing cash that are needed to satisfy that obligation and (2) the Successor Agency's explanation as to why the Successor Agency believes that such balances are needed to satisfy the obligation. Include this schedule as an attachment to the AUP report.

**Citation:**

34179.5(c)(6) *The review shall total the net balances available after deducting the total amounts described in subparagraphs (B) to (E), inclusive, of paragraph (5). The review shall add any amounts that were transferred as identified in paragraphs (2) and (3) of subdivision (c) if an enforceable obligation to make that transfer did not exist. The resulting sum shall be available for allocation to affected taxing entities pursuant to Section 34179.6. It shall be a rebuttable presumption that cash and cash equivalent balances available to the successor agency are available and sufficient to disburse the amount determined in this paragraph to taxing entities. If the review finds that there are insufficient cash balances to transfer or that cash or cash equivalents are specifically obligated to the purposes described in subparagraphs (B), (D), and (E) of paragraph (5) in such amounts that there is insufficient cash to provide the full amount determined pursuant to this paragraph, that amount shall be demonstrated in an additional itemized schedule.*

**Procedures:**

10. Include (or present) a schedule detailing the computation of the Balance Available for Allocation to Affected Taxing Entities from the Low/Mod Fund. Amounts included in the calculation should agree to the results of the procedures performed in each section above. The schedule should also include a deduction to recognize amounts already paid from the Low/Mod Fund to the County Auditor-Controller on July 12, 2012, as directed by the California Department of Finance. The amount of this deduction presented should be agreed to evidence of payment. The attached example summary schedule may be considered for this purpose.

**Procedure:**

11. Obtain a representation letter from Successor Agency management acknowledging their responsibility for the data provided to the practitioner and the data presented in the report for the Low/Mod Fund or in any attachments to the report. Included in the representations should be an acknowledgment that management is not aware of any transfers (as defined by Section 34179.5) from the Low/Mod Fund of either the former redevelopment agency or the Successor Agency to other parties for the period from January 1, 2011 through June 30, 2012, that have not been properly identified in the AUP report and its related exhibits. Management's refusal to sign the representation letter should be noted in the AUP report, as required by attestation standards.

**Estimated Hours and Fees  
Low and Moderate Income Housing Fund  
of the Successor Agency**

<u>Professional Staff Level</u>	<u>Contract Rates</u>	<u>Estimated Hours</u>	<u>Estimated Fees</u>
Partner/Director	\$ 390	10.00	\$ 3,900
Manager	230	25.00	5,750
Senior Associate	135	40.00	5,400
Associate	115	30.00	3,450
Clerical	100	5.00	500
Total		<u>110.00</u>	<u>\$ 19,000</u>