



January 11, 2017

Kimberly Nash, Regional Counsel
U.S. Department of Housing & Urban Development
Office of General Counsel
1 Sansome St. #1200,
San Francisco, CA 94104

Dear Ms. Nash,

This notification is being sent to you pursuant to the memorandum dated December 9, 2016 requesting that public housing authorities notify HUD of any litigation in which the housing authority is involved. The Housing Authority for the City of Santa Rosa is involved in litigation against the California Department of Finance (“DOF”) regarding DOF’s interpretation of a California statute. A copy of the petition for writ of mandate is enclosed; it was filed in Sacramento County Superior Court.

The Santa Rosa Housing Authority, along with three other housing authorities (County of Sonoma, City of Riverside and City of San Jacinto) are petitioners along with entities known as the Successor Agencies from the same jurisdictions. The Successor Agencies are one of two successor entities that were created when all redevelopment agencies were dissolved pursuant to state legislation on February 1, 2012. Successor Agencies inherited all of the non-affordable housing obligations of the former redevelopment agencies. The affordable housing obligations of the former redevelopment agencies devolved either to the city or county that created the redevelopment agency, but a city or county could also determine it did not want to assume those housing obligations, in which case, they devolved to the local housing authority. Each of the four housing authorities is a so-called housing successor which is now responsible for the ongoing affordable obligations of the former redevelopment agency that operated within its jurisdiction.

In 2014, the California Legislature enacted AB 471, which provided that housing authorities that were the designated housing successors to former redevelopment agencies were entitled to receive a “housing entity administrative cost allowance” for five years. The purpose of this allowance was to pay for some of the administrative expenses that housing successors inherited, such as monitoring compliance with affordability covenants on projects that had received financial assistance from the former redevelopment agencies. The legislation recognized that housing authorities have limited revenues whose uses are usually restricted by federal or state rules and regulations for the specific funding program.



The litigation centers on the statutory interpretation of three key sections in the Health and Safety Code. Section 34171(p) is the subsection that provides for the administrative cost allowance to those housing authorities that are housing successors. Section 34176(b) describes the process by which a housing authority becomes a housing successor. Finally, Section 34167.10 defines as “city” or “county” as including certain entities that are related to a city or county.

DOF has relied upon Section 34167.10 to deny the administrative allowance to the Housing Authority petitioners, claiming that they are essentially the equivalent of the city or county which created them. The only instances in which DOF has authorized the allowance is when a city housing authority is the housing successor to a county housing authority, and vice versa. The position of the petitioners is that any housing authority that is a housing successor is entitled to the allowance, based on a plain reading of Section 34171(p) and 34176(b).

The trial court ruled in favor of DOF at trial, and the case is pending in the Court of Appeal for the Third Appellate District in Sacramento. There is another case also pending at the Court of Appeal that involves exactly the same issue, in which the trial court ruled in favor of the Successor Agency and Housing Authority. The petitioners in the Santa Rosa case will be asking the Court of Appeal to consider both cases together.

Finally, an adverse judgment in the case would not result in any use of funds obtained from HUD. Such a judgment would mean that the Housing Authority would not receive the administrative cost allowance set forth in Health and Safety Code section 34171(p).

If you have any questions, I can be reached at dgouin@srcity.org.

David Gouin
Director of Housing & Community Services

Attached: Petition for Writ of Mandate

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Attorneys for Petitioners

FILED
Superior Court Of California,
Sacramento
03/24/2015
mrubalcaba
By _____, Deputy
Case Number:
34-2015-80002051

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF SANTA ROSA;
SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF RIVERSIDE;
SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF SAN JACINTO;
SUCCESSOR AGENCY TO THE
SONOMA COUNTY COMMUNITY
REDEVELOPMENT AGENCY;
HOUSING AUTHORITY OF THE CITY
OF SANTA ROSA;
CITY OF RIVERSIDE HOUSING
AUTHORITY;
SAN JACINTO HOUSING AUTHORITY;
HOUSING AUTHORITY OF THE
COUNTY OF SONOMA; and
SONOMA COUNTY COMMUNITY
DEVELOPMENT COMMISSION,

Petitioners,

v.

MICHAEL COHEN, Director of the
Department of Finance of the State of
California;
PAUL ANGULO, Auditor-Controller of
the County of Riverside;
DAVID E. SUNDSTROM, Auditor-
Controller of the County of Sonoma; and
DOES 1 through 30,

Respondents.

Case No.

**Exempt from Filing Fees Pursuant to Gov't
Code §6103**

PETITION FOR WRIT OF MANDATE

1 This Petition for Writ of Mandate ("Petition") is brought by Petitioners the Successor
2 Agency to the Redevelopment Agency of the City of Santa Rosa ("Santa Rosa Successor
3 Agency"), the Successor Agency to the Redevelopment Agency of the City of Riverside
4 ("Riverside Successor Agency"), the Successor Agency to the Redevelopment Agency of the City
5 of San Jacinto ("San Jacinto Successor Agency"), the Successor Agency to the Sonoma County
6 Community Redevelopment Agency ("Sonoma County Successor Agency"), the Housing
7 Authority of the City of Santa Rosa, in its capacity as the housing successor to the former
8 Redevelopment Agency of the City of Santa Rosa ("Santa Rosa Housing Authority"), the City of
9 Riverside Housing Authority, in its capacity as the housing successor to the former
10 Redevelopment Agency of the City of Riverside (the "Riverside Housing Authority"), the
11 San Jacinto Housing Authority, in its capacity as the housing successor to the former
12 Redevelopment Agency of the City of San Jacinto ("San Jacinto Housing Authority"), and the
13 Sonoma County Community Development Commission, in its capacity as the governing body for
14 the Sonoma County Housing Authority, the housing successor to the former Sonoma County
15 Community Redevelopment Agency ("Sonoma County CDC") (all, collectively "Petitioners").
16 This Petition is directed to Respondents Michael Cohen ("Cohen") in his official capacity as
17 Director of the State of California Department of Finance ("DOF"), Paul Angulo, in his official
18 capacity as Riverside County Auditor-Controller ("Riverside County Auditor-Controller"), and,
19 solely with respect to the Santa Rosa Successor Agency and the Santa Rosa Housing Authority
20 (and not with respect to the Sonoma County Successor Agency or the Sonoma County CDC),
21 David E. Sundstrom, in his official capacity as Sonoma County Auditor-Controller ("Sonoma
22 County Auditor-Controller") (all, collectively "Respondents").

23 **PARTIES AND OTHER PRELIMINARY ALLEGATIONS**

24 1. Petitioner Santa Rosa Successor Agency is the designated successor agency to the
25 former Redevelopment Agency of the City of Santa Rosa ("Santa Rosa RDA"), established
26 pursuant to Health and Safety Code Section 34173. Pursuant to Section 34173(g)¹, the
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28 ¹ Unless otherwise noted, all statutory references are to the California Health and Safety Code.

1 Santa Rosa Successor Agency is a separate public entity and can sue and be sued in its own name.
2 Petitioner Santa Rosa Successor Agency sues on its own behalf.

3 2. Petitioner Riverside Successor Agency is the designated successor agency to the
4 former Redevelopment Agency of the City of Riverside ("Riverside RDA"), established pursuant
5 to Health and Safety Code Section 34173. Pursuant to Section 34173(g), the Riverside Successor
6 Agency is a separate public entity and can sue and be sued in its own name. Petitioner Riverside
7 Successor Agency sues on its own behalf.

8 3. Petitioner San Jacinto Successor Agency is the designated successor agency to the
9 former Redevelopment Agency of the City of San Jacinto ("San Jacinto RDA"), established
10 pursuant to Health and Safety Code Section 34173. Pursuant to Section 34173(g), the San Jacinto
11 Successor Agency is a separate public entity and can sue and be sued in its own name. Petitioner
12 San Jacinto Successor Agency sues on its own behalf.

13 4. Petitioner Sonoma County Successor Agency is the designated successor agency
14 to the former Sonoma County Community Redevelopment Agency ("Sonoma County CRA"),
15 established pursuant to Health and Safety Code Section 34173. Pursuant to Section 34173(g), the
16 Sonoma County Successor Agency is a separate public entity and can sue and be sued in its own
17 name. Petitioner Sonoma County Successor Agency sues on its own behalf.

18 5. Petitioner Santa Rosa Housing Authority was designated the housing successor to
19 the former Santa Rosa RDA pursuant to Health and Safety Code Section 34176(b)(3). The
20 Santa Rosa Housing Authority was established in 1971. The Commissioners of the Santa Rosa
21 Housing Authority are appointed by the City Council, and two of the Commissioners must be
22 participants of the Santa Rosa Housing Authority's Rental Housing Assistance Program.
23 Pursuant to Section 34311(a), the Santa Rosa Housing Authority can sue and be sued in its own
24 name. Petitioner Santa Rosa Housing Authority sues on its own behalf.

25 6. Petitioner Riverside Housing Authority was designated the housing successor to
26 the former Riverside RDA pursuant to Health and Safety Code Section 34176(b)(3). The
27 Riverside Housing Authority was established in 2006. The members of the Riverside City
28 Council constitute the Commissioners of the Riverside Housing Authority. Pursuant to Section

1 34311(a), the Riverside Housing Authority can sue and be sued in its own name. Petitioner
2 Riverside Housing Authority sues on its own behalf.

3 7. Petitioner San Jacinto Housing Authority was designated the housing successor to
4 the former San Jacinto RDA pursuant to Health and Safety Code Section 34176(b)(2). The
5 San Jacinto Housing Authority was established in 2011. The members of the San Jacinto City
6 Council constitute the Commissioners of the San Jacinto Housing Authority. Pursuant to Section
7 34311(a), the San Jacinto Housing Authority can sue and be sued in its own name. Petitioner
8 San Jacinto Housing Authority sues on its own behalf.

9 8. Petitioner Sonoma County CDC is a public entity duly formed under Division 24,
10 Part 1.7 of the California Health and Safety Code. Pursuant to that law, the Sonoma County CDC
11 governs and operates the Housing Authority of the County of Sonoma (the "Sonoma County
12 Housing Authority"), a public entity duly formed under Division 24, Part 2 of the California
13 Health and Safety Code. The Sonoma County Housing Authority was designated the housing
14 successor to the former Sonoma County CRA pursuant to Health and Safety Code Section
15 34176(b)(2). The Sonoma County Housing Authority was created in 1970. The Sonoma County
16 CDC was established in 1978 pursuant to Section 34110 and governs and operates the Sonoma
17 County Housing Authority. The members of the Sonoma County Board of Supervisors constitute
18 the members of the Board of Commissioners of the Sonoma County CDC. Pursuant to Section
19 34132(a), the Sonoma County CDC can sue and be sued in its own name, and pursuant to Section
20 34311(a), the Sonoma County Housing Authority can sue and be sued in its own name. Petitioner
21 Sonoma County CDC sues on its own behalf and on behalf of the Sonoma County Housing
22 Authority.

23 9. Respondent Michael Cohen is the Director of the Department of Finance of the
24 State of California ("DOF"), an agency of the State of California, and is named herein at all times
25 in his official capacity. DOF is charged with certain duties pursuant to the provisions of
26 ABX1 26, effective June 28, 2011, as subsequently amended, including by AB 1484, effective
27 June 27, 2012, and AB 471, effective February 18, 2014, and as codified in the California Health

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1 and Safety Code (the “Dissolution Law”), which set forth the process and procedures for winding
2 down the operations of former redevelopment agencies in California.

3 10. Respondent Paul Angulo is the County Auditor-Controller of the County of
4 Riverside, the county in which Petitioners Riverside Successor Agency, San Jacinto Successor
5 Agency, Riverside Housing Authority and San Jacinto Housing Authority are located, and is
6 named herein at all times in his official capacity. The Riverside County Auditor-Controller, as
7 described further below, has certain statutory and fiduciary duties including, but not limited to,
8 the proper allocation and distribution of certain property tax revenues to successor agencies under
9 the Dissolution Law.

10 11. Respondent David E. Sundstrom is the County Auditor-Controller of the County
11 of Sonoma, the county in which Petitioners Santa Rosa Successor Agency and Santa Rosa
12 Housing Authority are located, and is named herein by the Santa Rosa Successor Agency and the
13 Santa Rosa Housing Authority at all times in his official capacity. The Sonoma County Auditor-
14 Controller, as described further below, has certain statutory and fiduciary duties including, but not
15 limited to, the proper allocation and distribution of certain property tax revenues to successor
16 agencies under the Dissolution Law.

17 12. The true names and capacities, whether individual, corporate, or otherwise, of
18 Respondents Does 1 through 30 are unknown to Petitioners, who sue these Respondents by
19 fictitious names. Petitioners will ask leave to amend this Petition to show the true names and
20 capacities when they are ascertained. Petitioners are informed and believe that Does 1-30 are in
21 some way legally responsible to Petitioners for the matters alleged herein. Any reference to
22 “Respondents” in this Petition shall mean and include Does 1-30.

23 13. Petitioners have performed all conditions precedent to filing this action. No
24 remedies exist that Petitioners could exhaust, and exhaustion should not be considered because
25 Petitioners face imminent harm. Petitioners have no plain, speedy, and adequate remedy other
26 than relief through this Petition.

27 14. Pursuant to Section 34189.3, an “action contesting any act taken or determinations
28 or decisions made pursuant to this [Part 1.85] or Part 1.8 (commencing with Section 34161) may

1 be brought in superior court and shall be filed in the County of Sacramento.” This action is taken
2 pursuant to Part 1.85 and therefore venue is proper in this Court. Venue is also proper in the
3 Superior Court for the County of Sacramento on multiple other statutory grounds, including Code
4 of Civil Procedure Sections 393(b) and 395.

5 **GENERAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

6 **Creation and Dissolution of Redevelopment Agencies**

7 15. The California Community Redevelopment Law (codified as Health and Safety
8 Code Sections 33000 *et seq.*) (“CRL”) authorized the creation of redevelopment agencies to
9 remediate urban decay and to revitalize blighted neighborhoods.

10 16. The Santa Rosa RDA, the Riverside RDA, the San Jacinto RDA and the Sonoma
11 County CRA (collectively, the “Redevelopment Agencies”) were all established pursuant to the
12 CRL to carry out the purposes of the CRL pursuant to redevelopment plans adopted by the
13 applicable legislative bodies pursuant to the CRL (collectively, the “Redevelopment Plans”).

14 17. Under the Redevelopment Plans and the CRL, one of the primary purposes of
15 redevelopment was “increasing, improving, and preserving the community’s supply of low- and
16 moderate-income housing available at affordable housing cost ... to persons and families of low
17 or moderate income ... lower income households ... very low income households ... and
18 extremely low income households.” (§33334.2(a).)

19 18. The Redevelopment Agencies were required to set aside “not less than 20 percent
20 of all taxes that were allocated to the agency pursuant to Section 33670 [property tax revenues]”
21 to be used specifically for such affordable housing purposes. (*Ibid.*)

22 19. Redevelopment agencies throughout California were dissolved effective
23 February 1, 2012, as a result of the California Legislature’s adoption of ABX1 26, and
24 modifications to ABX1 26 imposed by the California Supreme Court in its decision in *California*
25 *Redevelopment Association v. Matosantos*, (2011) 53 Cal.4th 231.

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Housing Authorities

20. The California Legislature authorized the creation of local housing authorities under the California Housing Authorities Law (codified as California Health and Safety Code Section 34200, *et seq.*) (“Housing Authorities Law”).

21. Housing authorities are independent legal entities, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out the purposes and provisions of the Housing Authorities Law. (§34310.)

Successor Agencies; Oversight Boards

22. The Dissolution Law created “successor agencies” that were designated as the successor entities succeeding to the rights and responsibilities of redevelopment agencies, and charged with winding down the affairs of the former redevelopment agencies. Following dissolution, it was the responsibility of the successor agencies to continue to make payments and perform the former redevelopment agencies’ “enforceable obligations,” as defined in the Dissolution Law. (§§34171, 34172, 34173, 34174, 34175.)

23. Each successor agency has an oversight board (“Oversight Board”) composed of seven members, appointed as set forth in Section 34179. Many of the actions of the successor agency must first be approved by the Oversight Board. (§34180.)

24. Under the Dissolution Law, the entity that had created a redevelopment agency was deemed to be the successor agency unless that entity specifically opted out no later than January 13, 2012 (as reformed). (Former §34171(j); §34173.)

25. The City of Santa Rosa did not opt out and instead adopted City Council Resolution No. 28029 on January 10, 2012, electing to become the successor agency to the Santa Rosa RDA.

26. The City of Riverside did not opt out and instead adopted City Council Resolution No. 22322 on January 10, 2012, reaffirming the authorization of the City to become the successor agency to the Riverside RDA.

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28. The County of Sonoma did not opt out and instead adopted Joint Resolution No. 12-0004 on January 10, 2012, pursuant to which the County elected to become the successor agency to the Sonoma County CRA.

Housing Successors

29. Section 34176(a)(1) provides, in part, that the “city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency.” However, under Section 34176(b), if a city, county or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, “all rights, powers, assets, duties, and obligations associated with the housing activities of the agency ... shall be transferred ... if there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority [or] if there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.” (§34176(b)(2), (3).)

30. In the case of the Santa Rosa RDA, it was determined both the Housing Authority of the City of Santa Rosa and the Sonoma County Housing Authority may provide affordable housing services within the jurisdictional territory of the former Santa Rosa RDA. By Resolution No. 1535, adopted on January 23, 2012, the Santa Rosa Housing Authority recommended that the Santa Rosa City Council select the Santa Rosa Housing Authority to retain the housing assets and functions of the former Santa Rosa RDA. By Resolution No. 28036, adopted on January 24, 2012, the Santa Rosa City Council selected the Housing Authority of the City of Santa Rosa to retain the housing assets and functions previously performed by the Santa Rosa RDA, as authorized under Section 34176(b)(2) and (3).

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1 31. In the case of the Riverside RDA, the Riverside City Council adopted Resolution
2 No. 22323 on January 10, 2012, whereby the City elected not to retain the responsibility to
3 perform the housing functions previously performed by the Riverside RDA, and designated the
4 Housing Authority of the City of Riverside as the entity to retain said housing functions pursuant
5 to Health and Safety Code Section 34176(b)(3).

6 32. In the case of the San Jacinto RDA, the San Jacinto City Council adopted
7 Resolution No. 3408 on January 9, 2012, whereby the City Council elected not to retain the
8 housing assets and functions previously performed by the San Jacinto RDA, and provided that
9 said housing assets and functions be transferred to the San Jacinto Housing Authority, pursuant to
10 Health and Safety Code Section 34176(b)(2).

11 33. In the case of the Sonoma County CRA, the Sonoma County Board of Supervisors
12 adopted Joint Resolution No. 12-0004 on January 10, 2012, designating the Sonoma County CDC
13 as the successor housing entity to retain the housing functions previously performed by the
14 Sonoma County CRA pursuant to Health and Safety Code Section 34176(b)(2).

15 **Recognized Obligation Payment Schedule ("ROPS")**

16 34. As part of the dissolution process, the Successor Agency is required to prepare a
17 semi-annual Recognized Obligation Payment Schedule ("ROPS"). In addition to a list of the
18 enforceable obligations the Successor Agency must pay within a specific six-month period, the
19 ROPS must also include administrative costs estimated to be paid from the administrative cost
20 allowance. (§§34177(k), 34177(l)(1).)

21 35. The "administrative cost allowance" means an amount that, subject to the approval
22 of the oversight board, is payable from property tax revenues up to a specified amount.
23 (§34171(b).)

24 36. Once the Successor Agency prepares a ROPS, the Oversight Board reviews and
25 approves or disapproves the ROPS. (§§34177(1)(2)(B), 34180(g).)

26 37. After the Oversight Board either approves or disapproves a ROPS, the Successor
27 Agency must submit its ROPS to the Auditor-Controller, the State Controller and DOF.
28 (§34177(1)(2).)

1 38. DOF has the authority to review and supersede decisions by the Oversight Board,
2 including rejecting items listed on the ROPS that DOF believes do not qualify as enforceable
3 obligations or an administrative cost. (§§34177(m), 34179(h).)

4 **Redevelopment Property Tax Trust Fund (“RPTTF”) and**
5 **Redevelopment Obligations Retirement Fund (“RORF”)**

6 39. Section 34170.5(b) requires each county auditor-controller to create within the
7 county treasury a Redevelopment Property Tax Trust Fund (“RPTTF”) for deposit of the property
8 tax revenues related to each former redevelopment agency, for administration by the county
9 auditor-controller.

10 40. The Auditor-Controller is mandated to deposit property tax revenue into the
11 RPTTF to pay the obligations listed on a ROPS. (§34182, 34183(a)(3).)

12 41. Section 34170.5(a) requires each successor agency to create within its treasury a
13 Redevelopment Obligation Retirement Fund (“RORF”) to be administered by the successor
14 agency.

15 42. The Dissolution Law requires the Auditor-Controller to transfer from the RPTTF
16 of each successor agency into the RORF of that successor agency “an amount of property tax
17 revenues equal to that specified in the Recognized Obligation Payment Schedule for that
18 successor agency as payable from the Redevelopment Property Tax Trust Fund.” Such
19 distributions are to be made to the Successor Agency from its RPTTF every January 2 and June 1.
20 (§34185.)

21 43. After payment of pass-through payments,² enforceable obligations defined in
22 Section 34171(d), approved administrative costs and other costs, the taxing entities receive any
23 remaining funds in the RPTTF as ordinary property taxes. (§34183(a).)

24 44. The ROPS controls what the Successor Agency may spend to retire enforceable
25 obligations of the RDA, pay its administrative costs, and fund its other required activities and also
26 determines the amount in the RPTTF that will be available for distribution to taxing entities.

27 ² “Pass-through payments” are payments formerly made by the redevelopment agencies to taxing
28 entities either contractually under the authority of former Section 33401 or pursuant to a statutory
schedule set forth in Section 33607.5.

Housing Entity Administrative Cost Allowance

45. Section 34177 was modified by AB 471, effective February 18, 2014, to provide that “if a local housing authority assumed the housing functions of the former redevelopment agency pursuant to paragraph (2) or (3) of Section 34176(b),” then the successor agency shall list on the ROPS a “housing entity administrative cost allowance.” (§34171(p).)

46. The housing entity administrative cost allowance is applicable during the five-year period from July 1, 2014 to July 1, 2018, and is defined as “an amount of up to 1 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund on behalf of the successor agency for each applicable fiscal year, but no less than one hundred fifty thousand dollars (\$150,000) per fiscal year.” (*Ibid.*)

47. Section 34177 further provides that, upon approval of the ROPS by the oversight board and DOF, the housing entity administrative cost allowance shall be remitted by the successor agency to the local housing authority that assumed the housing functions of the former redevelopment agency. (*Ibid.*)

48. If there are insufficient moneys in the RORF in a given fiscal year to make the specified housing entity administrative cost allowance, the unfunded amount may be listed on each subsequent ROPS until it has been paid in full, and in such event the five-year limit does not apply. (*Ibid.*)

ROPS 14-15A

Santa Rosa

49. On February 27, 2014, the Oversight Board for the Santa Rosa Successor Agency approved the ROPS covering the period July 1, 2014 through December 31, 2014 (“Santa Rosa ROPS 14-15A”). The housing entity administrative cost allowance, as required by Section 34176(p)(1), was included on Santa Rosa ROPS 14-15A as Item 91 (designated as Housing Authority Administrative Cost), in the amount of \$75,000.

50. The Santa Rosa ROPS 14-15A was subsequently submitted to DOF on February 28, 2014 for review and approval.

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1 51. In its letter of April 11, 2014, from Justyn Howard, Assistant Program Budget
2 Manager, DOF acknowledged it had completed its review of Santa Rosa ROPS 14-15A, and
3 along with other items, specifically denied Item 91, the Housing Authority Administrative Cost in
4 the amount of \$75,000. DOF's denial indicated that, "pursuant to HSC section 34171(p), the
5 housing entity administrative cost allowance is applicable only in cases where the city, county, or
6 city and county that authorized the creation of the redevelopment agency elected to not assume
7 the housing functions. Because the housing entity to the former redevelopment agency of the
8 City of Santa Rosa is the City-formed Housing Authority (Authority), the Authority operates
9 under the control of the City. Therefore, \$75,000 of housing entity administrative allowance is
10 not allowed and not eligible for funding on ROPS."

11 52. Pursuant to Section 34177(m), the Santa Rosa Successor Agency completed and
12 submitted a Meet and Confer Request Form relating to several disputed issues on Santa Rosa
13 ROPS 14-15A, including DOF's denial of the payment of the housing entity administrative
14 allowance.

15 53. A Meet and Confer session was held on April 24, 2014.

16 54. Following the Meet and Confer session, the Santa Rosa Successor Agency
17 received a subsequent letter from DOF, dated May 16, 2014, that superseded DOF's prior letter
18 dated April 11, 2014. In its May 16, 2014 letter, DOF continued to deny approval of Item 91 of
19 Santa Rosa ROPS 14-15A, based on the same reasoning in its April 11, 2014, letter, but adding
20 that because the housing successor entity is the City-formed Housing Authority and the Authority
21 operates under the control of the City, "the Authority is considered the City under Dissolution
22 Law (ABx1 26 and AB 1484)." DOF, citing the definition of "city" in HSC section 34167.10(a)
23 and further relying on the provisions of HSC section 34167(c), has made the determination that
24 the "City, by way of the Authority, elected to retain the housing functions pursuant to HSC
25 section 34176(a) and is not eligible for \$75,000 of housing entity administrative allowance."

26 **Riverside**

27 55. On February 27, 2014, the Oversight Board for the Riverside Successor Agency
28 approved the ROPS covering the period July 1, 2014 through December 31, 2014 ("Riverside

1 ROPS 14-15A”). The housing entity administrative cost allowance, as required by Section
2 34176(p)(1), was included on Riverside ROPS 14-15A as Item 192 (designated as Housing
3 Administrative Cost Allowance), in the amount of \$289,687 (1% of the property tax allocated to
4 the RORF).

5 56. The Riverside ROPS 14-15A was subsequently submitted to DOF on February 27,
6 2014 for review and approval.

7 57. In its letter of April 10, 2014, from Justyn Howard, Assistant Program Budget
8 Manager, DOF acknowledged it had completed its review of Riverside ROPS 14-15A, and along
9 with other items, specifically denied Item 192, the Housing Administrative Cost Allowance in the
10 amount of \$289,687. DOF’s denial indicated that, “pursuant to HSC section 34171(p), the
11 housing entity administrative cost allowance is applicable only in cases where the city, county, or
12 city and county that authorized the creation of the redevelopment agency elected to not assume
13 the housing functions. Because the housing entity to the former redevelopment agency of the
14 City of Riverside (City) is the City-formed Housing Authority (Authority) and the Authority
15 operates under the control of the City, the Authority is considered the City under Dissolution
16 Law. Therefore, \$289,687 of housing entity administrative allowance is not allowed.”

17 58. Pursuant to Section 34177(m), the Riverside Successor Agency completed and
18 submitted a Meet and Confer Request Form relating to several disputed issues on Riverside
19 ROPS 14-15A, including DOF’s denial of the payment of the housing entity administrative
20 allowance.

21 59. A Meet and Confer session was held on April 28, 2014.

22 60. Following the Meet and Confer session, the Riverside Successor Agency received
23 a subsequent letter from DOF, dated May 16, 2014, that superseded DOF’s prior letter dated
24 April 10, 2014. In its May 16, 2014 letter, DOF continued to deny approval of Item 192 of
25 Riverside ROPS 14-15A, citing the same reasoning as in its April 10, 2014 letter. Further, similar
26 to its response to Santa Rosa ROPS 14-15A, DOF cited the definition of “city” in HSC Section
27 34167.10(a) and the provisions of HSC Section 34167(c) to make its determination that the “City,

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1 by way of the Authority, elected to retain the housing functions pursuant to HSC section 34176(a)
2 and is not eligible for \$289,687 of housing entity administrative allowance.”

3 **San Jacinto**

4 61. On February 27, 2014, the Oversight Board for the San Jacinto Successor Agency
5 approved the ROPS covering the period July 1, 2014 through December 31, 2014 (“San Jacinto
6 ROPS 14-15A”). The housing entity administrative cost allowance, as required by Section
7 34176(p)(1), was included on San Jacinto ROPS 14-15A as Item 13 (designated as
8 Administrative cost - Housing), in the amount of \$75,000.

9 62. The San Jacinto ROPS 14-15A was subsequently submitted to DOF on March 3,
10 2014 for review and approval.

11 63. In its letter of April 17, 2014, from Justyn Howard, Assistant Program Budget
12 Manager, DOF acknowledged it had completed its review of San Jacinto ROPS 14-15A, and
13 along with other items, specifically denied Item 13, the Housing Administrative Cost in the
14 amount of \$75,000. DOF’s denial indicated that, “pursuant to HSC section 34171(p), the housing
15 entity administrative cost allowance is applicable only in cases where the city, county, or city and
16 county that authorized the creation of the redevelopment agency elected to not assume the
17 housing functions. Because the housing entity to the former redevelopment agency of the City of
18 San Jacinto (City) is the City-formed Housing Authority (Authority) and the Authority operates
19 under the control of the City, the Authority is considered the City under Dissolution Law pursuant
20 to HSC section 34167.10. Therefore, \$75,000 of housing entity administrative allowance is not
21 allowed.”

22 64. Pursuant to Section 34177(m), the San Jacinto Successor Agency completed and
23 submitted a Meet and Confer Request Form relating to several disputed issues on San Jacinto
24 ROPS 14-15A, including DOF’s denial of the payment of the housing entity administrative
25 allowance.

26 65. A Meet and Confer session was held on May 7, 2014.

27 66. Following the Meet and Confer session, the San Jacinto Successor Agency
28 received a subsequent letter from DOF, dated May 16, 2014, that superseded DOF’s prior letter

1 dated April 17, 2014. In its May 16, 2014 letter, DOF continued to deny approval of Item 13 of
2 San Jacinto ROPS 14-15A, based on the same reasoning in its April 17, 2014 letter. Further,
3 similar to its response to Santa Rosa ROPS 14-15A and Riverside ROPS 14-15A, DOF cited the
4 definition of “city” in HSC Section 34167.10(a) and the provisions of HSC Section 34167(c) to
5 make its determination that the “City, by way of the Authority, elected to retain the housing
6 functions pursuant to HSC section 34176(a) and is not eligible for \$75,000 of housing entity
7 administrative allowance.”

8 **Sonoma County**

9 67. On February 12, 2014, the Oversight Board for the Sonoma County Successor
10 Agency approved the ROPS covering the period July 1, 2014 through December 31, 2014
11 (“Sonoma County ROPS 14-15A”). The housing entity administrative cost allowance, as
12 required by Section 34176(p)(1), was included on Sonoma County ROPS 14-15A as Item 120
13 (designated as Housing Entity Administrative Cost Allowance), in the amount of \$75,000.

14 68. The Sonoma County ROPS 14-15A was subsequently submitted to DOF on
15 February 28, 2014 for review and approval.

16 69. In its letter of April 9, 2014, from Justyn Howard, Assistant Program Budget
17 Manager, DOF acknowledged it had completed its review of Sonoma County ROPS 14-15A, and
18 along with other items, specifically denied Item 120, the Housing Entity Administrative Cost
19 Allowance in the amount of \$75,000. DOF’s denial indicated that, “pursuant to HSC section
20 34171(p), the housing entity administrative cost allowance is applicable only in cases where the
21 city, county, or city and county that authorized the creation of the redevelopment agency elected
22 to not assume the housing functions. The housing entity to the former redevelopment agency of
23 the County is the County-formed Housing Authority; the Authority operates under the control of
24 the County. Therefore, \$75,000 of housing entity administrative allowance is not allowed and not
25 eligible for funding on ROPS.”

26 70. Pursuant to Section 34177(m), the Sonoma County Successor Agency completed
27 and submitted a Meet and Confer Request Form relating to several disputed issues on Sonoma

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1 County ROPS 14-15A, including DOF's denial of the payment of the housing entity
2 administrative cost allowance.

3 71. A Meet and Confer session was held on April 21, 2014.

4 72. Following the Meet and Confer session, the Sonoma County Successor Agency
5 received a subsequent letter from DOF, dated May 16, 2014, that superseded DOF's prior letter
6 dated April 9, 2014. In its May 16, 2014 letter, DOF continued to deny approval of Item 120 of
7 Sonoma County ROPS 14-15A, based on the same reasoning in its April 9, 2014 letter. Further,
8 similar to its response to Santa Rosa ROPS 14-15A, Riverside ROPS 14-15A and San Jacinto
9 ROPS 14-15A, DOF cited the definition of "county" in HSC Section 34167.10(a) and the
10 provisions of HSC Section 34167(c) to make its determination that the "County, by way of the
11 Authority, elected to retain the housing functions pursuant to HSC section 34176(a) and is not
12 eligible for \$75,000 of housing entity administrative allowance."

13 **ROPS 14-15B**

14 **Santa Rosa**

15 73. On September 17, 2014, the Oversight Board for the Santa Rosa Successor
16 Agency approved the ROPS covering the period January 1, 2015 through June 30, 2015
17 ("Santa Rosa ROPS 14-15B"). The housing entity administrative cost allowance, as required by
18 Section 34176(p)(1), was included on Santa Rosa ROPS 14-15B as Item 91 (designated as
19 Housing Authority Administrative Cost), in the amount of \$75,000.

20 74. The Santa Rosa ROPS 14-15B was subsequently submitted to DOF on
21 September 25, 2014, for review and approval.

22 75. In its letter of November 7, 2014, from Justyn Howard, Acting Program Budget
23 Manager, DOF acknowledged it had completed its review of Santa Rosa ROPS 14-15B, and
24 along with other items, specifically denied Item 91, the Housing Authority Administrative Cost in
25 the amount of \$75,000. DOF explained this denial as follows: "Pursuant to HSC section
26 34171(p), the housing successor administrative cost allowance (ACA) is only appropriate if the
27 city, county, or city and county that authorized the creation of the former RDA elected to not
28 assume the housing functions of the former RDA. The City of Santa Rosa's Housing Authority

1 (City Housing Authority) elected to retain the housing functions of the former RDA. The City
2 Housing Authority is considered a component of the City. Therefore, the City Housing Authority
3 is not eligible for the housing successor ACA.”

4 76. Pursuant to Section 34177(m), the Santa Rosa Successor Agency completed and
5 submitted a Meet and Confer Request Form relating to several disputed issues on Santa Rosa
6 ROPS 14-15B, including DOF’s denial of the payment of the housing entity administrative
7 allowance.

8 77. A Meet and Confer session was held on November 18, 2014.

9 78. Following the Meet and Confer session, the Santa Rosa Successor Agency
10 received a subsequent letter from DOF, dated December 17, 2014, that superseded DOF’s prior
11 letter dated November 7, 2014. In its December 17, 2014 letter, DOF continued to deny approval
12 of Item 91, citing the same reasoning as in its November 7, 2014, letter. Also, as in its
13 December 17, 2014 letter denying the housing entity administrative expense under Santa Rosa
14 ROPS 14-15A, DOF cited the definition of “city” in HSC Section 34167.10(a) and the provisions
15 of HSC Section 34167(c), to make its determination that the “City, by way of the Authority,
16 elected to retain the housing functions pursuant to HSC section 34176(a) and is not eligible for
17 \$75,000 of housing entity administrative allowance.”

18 **Riverside**

19 79. On September 11, 2014, the Oversight Board for the Riverside Successor Agency
20 approved the ROPS covering the period January 1, 2015 through June 30, 2015 (“Riverside
21 ROPS 14-15B”). The housing entity administrative cost allowance, as required by Section
22 34176(p)(1), was included on Riverside ROPS 14-15B as Item 192 (designated as Housing
23 Admin Cost Allowance), however, because DOF had previously denied the housing entity
24 administrative cost allowance for Riverside and other successor agencies reported on ROPS 14-
25 15A, no specific amount was claimed for the housing entity administrative cost allowance under
26 Riverside ROPS 14-15B.

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San Jacinto

80. On September 29, 2014, the Oversight Board for the San Jacinto Successor Agency approved the ROPS covering the period January 1, 2015 through June 30, 2015 (“San Jacinto ROPS 14-15B”). The housing entity administrative cost allowance, as required by Section 34176(p)(1), was included on San Jacinto ROPS 14-15B as Item 13 (designated as Administrative Cost - Housing), however, because DOF had previously denied the housing entity administrative cost allowance for San Jacinto and other successor agencies reported on ROPS 14-15A, no specific amount was claimed for the housing entity administrative cost allowance under San Jacinto ROPS 14-15B.

Sonoma County

81. On September 10, 2014, the Oversight Board for the Sonoma County Successor Agency approved the ROPS covering the period January 1, 2015 through June 30, 2015 (“Sonoma County ROPS 14-15B”). The housing entity administrative cost allowance, as required by Section 34176(p)(1), was included on Sonoma ROPS 14-15B as Item 120 (designated as Housing Entity Administrative Cost Allowance), in the amount of \$150,000.

82. The Sonoma County ROPS 14-15B was subsequently submitted to DOF on September 23, 2014, for review and approval.

83. In its letter of November 4, 2014, from Justyn Howard, Acting Program Budget Manager, DOF acknowledged it had completed its review of Sonoma County ROPS 14-15B, and along with other items, specifically denied Item 120, the Housing Entity Administrative Cost Allowance in the amount of \$150,000. In its November 4, 2014 letter, DOF noted that, “pursuant to HSC section 34171(p), the housing successor administrative cost allowance is only applicable in cases where the city, county, or city and county that authorized the creation of the former RDA elected to not assume the housing functions.” DOF further noted that “the housing entity to the former RDA of the County is the County-formed Housing Authority; the Authority operates under the control of the County and is considered the County under Dissolution Law (ABx1 and AB 1484).” DOF also cited the definition of “county” in HSC Section 34167.10(a) and the provisions of HSC Section 34167(c), to make its determination that the “County, by way of the

1 Authority, elected to retain the housing functions pursuant to HSC section 34176(a) and is not
2 eligible for \$150,000 of housing entity administrative allowance.”

3 84. Pursuant to Section 34177(m), the Sonoma County Successor Agency completed
4 and submitted a Meet and Confer Request Form relating to several disputed issues on Sonoma
5 County ROPS 14-15B, including DOF’s denial of the payment of the housing entity
6 administrative cost allowance.

7 85. A Meet and Confer session was held on November 12, 2014.

8 86. Following the Meet and Confer session, the Sonoma County Successor Agency
9 received a subsequent letter from DOF, dated December 17, 2014, that superseded DOF’s prior
10 letter dated November 4, 2014. In its December 17, 2014 letter, DOF continued to deny approval
11 of Item 120, mirroring the language contained in its November 4, 2014, letter in making its
12 determination that the “County, by way of the Authority, elected to retain the housing functions
13 pursuant to HSC section 34176(a) and is not eligible for \$150,000 of housing entity
14 administrative allowance.”

15 **PETITION FOR WRIT OF MANDATE**

16 87. Petitioners incorporate all the foregoing paragraphs as though set forth fully
17 herein.

18 88. Respondents have a clear, present, and ministerial duty to administer the laws of
19 the State of California, including the Dissolution Law, without violating the California
20 Constitution, California Codes and, specifically, the Dissolution Law.

21 89. Petitioners are beneficially interested in performance of those ministerial duties
22 and have no other plain, speedy or adequate remedy at law to redress the statutory violations
23 described below other than issuance of a writ of mandate.

24 **Writ of Mandate — C.C.P. section 1085**
25 **(Directed to Respondent Cohen)**

26 90. Respondent Cohen has a ministerial duty to comply with Section 34171(d)(2) and
27 Petitioners have a clear, present and beneficial right to performance of that duty and have no other
28 plain, speedy or adequate remedy at law to compel such performance. Section 34171(p)(1)

1 provides that “if a local housing authority assumed the housing functions of the former
2 redevelopment agency pursuant to paragraph (2) or (3) of subdivision (b) of Section 34176, then
3 the housing entity administrative cost allowance shall be listed by the successor agency on the
4 Recognized Obligation Payment Schedule.” Section 34176(p)(1) further provides that, upon
5 approval of the ROPS by the Oversight Board and DOF, “the housing entity administrative cost
6 allowance shall be remitted by the successor agency on each January 2 and July 1 to the local
7 housing authority that assumed the housing functions of the former redevelopment agency
8 pursuant to paragraph (2) or (3) of subdivision (b) of Section 34176.”

9 91. Petitioners Successor Agencies have each listed the housing entity administrative
10 cost allowance on their ROPS 14-15A and ROPS 14-15B, which have been duly approved by
11 their respective Oversight Boards and timely submitted to DOF. Respondent Cohen has abused
12 his discretion by unlawfully refusing to approve the housing entity administrative cost allowance
13 claimed by each Petitioner. Petitioners have a clear, present and beneficial interest in Respondent
14 Cohen’s performance of his ministerial duty and Petitioners have no other plain, speedy or
15 adequate remedy at law to redress the failure to perform that duty.

16 92. Absent a writ of mandate to compel Respondent Cohen to comply with his
17 ministerial duties to recognize the housing entity administrative cost allowance as required under
18 Section 34176(p)(1), Petitioners will suffer irreparable injury in that Petitioners Santa Rosa
19 Housing Authority, Riverside Housing Authority, San Jacinto Housing Authority and the Sonoma
20 County CDC will each lack sufficient funds to carry out the duties of the housing successor as set
21 forth in the Dissolution Law. Further, other vital functions of each such housing authority will
22 have to be curtailed because funds have been diverted to pay housing entity administrative costs.

23 **Writ of Mandate — C.C.P. Section 1085**
24 **(Directed to Respondent Riverside County Auditor-Controller)**

25 93. As the Auditor-Controller of the County of Riverside, Respondent Paul Angulo
26 has a mandatory duty under Section 34183 to allocate monies from the RPTTF to the Riverside
27 Successor Agency for payments listed on Riverside ROPS 14-15A and Riverside ROPS 14-15B,

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1 and to allocate monies from the RPTTF to the San Jacinto Successor Agency for payments listed
2 on San Jacinto ROPS 14-15A and San Jacinto ROPS 14-15B.

3 94. Petitioners are informed and believe that the Riverside County Auditor-Controller
4 has abused his discretion by impermissibly relinquishing that duty to the DOF by relying at least
5 in part upon erroneous determinations made by the DOF with respect to housing entity
6 administrative cost allowances required for Riverside ROPS 14-15A, Riverside ROPS 14-15B,
7 San Jacinto ROPS 14-15A and San Jacinto ROPS 14-15B, and breached his mandatory,
8 ministerial duty.

9 95. Petitioners have a clear, present and beneficial interest in Respondent Riverside
10 County Auditor-Controller's performance of his ministerial duty, and Petitioners have no
11 adequate remedy at law to redress the failure to perform that duty.

12 96. Absent a writ of mandate to compel Respondent Riverside County Auditor-
13 Controller to perform his ministerial duty to distribute RPTTF revenue to the Riverside Successor
14 Agency for payment of the housing entity administrative cost allowance listed on Riverside
15 ROPS 14-15A and Riverside ROPS 14-15B, and to the San Jacinto Successor Agency for
16 payment of the housing entity administrative cost allowance listed on San Jacinto ROPS 14-15A
17 and San Jacinto ROPS 14-15B, and subsequent ROPS submitted by Riverside Successor Agency
18 and San Jacinto Successor Agency, Petitioners Riverside Successor Agency, San Jacinto
19 Successor Agency, Riverside Housing Authority and San Jacinto Housing Authority will suffer
20 irreparable injury in that Riverside Housing Authority and San Jacinto Housing Authority will
21 each lack sufficient funds to carry out the duties of the housing successor as set forth in the
22 Dissolution Law. Further, other vital functions of each such housing authority will have to be
23 curtailed because funds have been diverted to pay housing entity administrative costs.

24 **Writ of Mandate — C.C.P. Section 1085**
25 **(Directed to Respondent Sonoma County Auditor-Controller)**

26 97. As the Auditor-Controller of the County of Sonoma, Respondent David E.
27 Sundstrom has a mandatory duty under Section 34183 to allocate monies from the RPTTF to the

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1 Santa Rosa Successor Agency for payments listed on Santa Rosa ROPS 14-15A and Santa Rosa
2 ROPS 14-15B.

3 98. Petitioners Santa Rosa Successor Agency and Santa Rosa Housing Authority are
4 informed and believe that the Sonoma County Auditor-Controller has abused his discretion by
5 impermissibly relinquishing that duty to the DOF by relying at least in part upon erroneous
6 determinations made by the DOF with respect to housing entity administrative cost allowances
7 required for Santa Rosa ROPS 14-15A and Santa Rosa ROPS 14-15B, and breached his
8 mandatory, ministerial duty.

9 99. Petitioners Santa Rosa Successor Agency and Santa Rosa Housing Authority have
10 a clear, present and beneficial interest in Respondent Sonoma County Auditor-Controller's
11 performance of his ministerial duty, and Petitioners have no adequate remedy at law to redress the
12 failure to perform that duty.

13 100. Absent a writ of mandate to compel Respondent Sonoma County Auditor-
14 Controller to perform his ministerial duty to distribute RPTTF revenue to the Santa Rosa
15 Successor Agency for payment of the housing entity administrative cost allowance listed on
16 Santa Rosa ROPS 14-15A and Santa Rosa ROPS 14-15B, and subsequent ROPS submitted by
17 Santa Rosa Successor Agency, Petitioners Santa Rosa Successor Agency and Santa Rosa Housing
18 Authority will suffer irreparable injury in that Petitioners Santa Rosa Housing Authority will lack
19 sufficient funds to carry out the duties of the housing successor as set forth in the Dissolution
20 Law. Further, other vital functions of each such housing authority will have to be curtailed
21 because funds have been diverted to pay housing entity administrative costs.

22 WHEREFORE, Petitioners pray for relief as set forth hereinbelow.

23 **PRAYER ON THE PETITION**

24 NOW, THEREFORE, in accordance with California law and the foregoing allegations,
25 Petitioners pray for relief as follows:

26 1. For issuance of a peremptory writ of mandate compelling Respondent Cohen to
27 comply with his mandatory, ministerial duty to approve Petitioners' housing entity administrative
28 cost allowance as alleged herein, under the provisions of the Dissolution Law;

2. For issuance of a peremptory writ of mandate compelling Respondent Riverside County Auditor-Controller to comply with his mandatory, ministerial duty to allocate RPTTF for the housing administrative cost allowance in accordance with the Dissolution Law;

3. For issuance of a peremptory writ of mandate compelling Respondent Sonoma County Auditor-Controller to comply with his mandatory, ministerial duty to allocate RPTTF for the housing entity administrative cost allowance in accordance with the Dissolution Law;

4. For a peremptory writ of mandate compelling Respondents to comply fully with all applicable laws;

5. Awarding attorneys' fees to Petitioners to the extent permitted by law, including Government Code Section 800, and Code of Civil Procedure Sections 1021.5 and 1036;

6. Awarding costs to Petitioners; and

7. Awarding such other and further relief as may be appropriate.

Dated: March 24, 2015

BEST BEST & KRIEGER LLP

By: 
T. BRENT HAWKINS

By: 
IRIS P. YANG

Attorneys for Petitioners

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VERIFICATION

I, T. Brent Hawkins, am an attorney at law duly admitted and licensed to practice before all courts of this State and I have my professional office at 500 Capitol Mall, Suite 1700, Sacramento, California.

I am the attorney of record for the Petitioners ("Petitioners") in this action. Petitioners Successor Agency to the Redevelopment Agency of the City of Santa Rosa, Successor Agency to the Sonoma County Community Redevelopment Agency, Housing Authority of the City of Santa Rosa and Housing Authority of the County of Sonoma and Sonoma County Community Development Commission are located in Sonoma County and are absent from the county in which I have my office. In addition, Petitioners Successor Agency to the Redevelopment Agency of the City of Riverside, Successor Agency to the Redevelopment Agency of the City of San Jacinto, City of Riverside Housing Authority and San Jacinto Housing Authority are located in Riverside County and are absent from the county in which I have my office. For these reasons I am making this verification on Petitioners' behalf.

I have read the foregoing Petition for Writ of Mandate and know the contents thereof. I am informed and believe the matters therein to be true and on that ground allege that the matters stated therein are true, including those matters which are therein alleged on information and belief, which I also believe to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 24, 2015, at Sacramento, California.


T. BRENT HAWKINS