



December 17, 2013

Ms. Maureen Toms, Principal Planner  
Contra Costa County  
30 Muir Road  
Martinez, CA 94553

Dear Ms. Toms:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 14, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the Contra Costa County Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 30, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 14, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on December 3, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific items being disputed.

- Item No. 1 – Financial Services for Property Development in the amount of \$30,000. Finance no longer denies this item. Finance initially denied \$30,000 of this item because the Agency had requested half of the total obligation amount of \$60,000 in the July through December 2013 period (ROPS 13-14A) and only \$30,000 remains available. During the Meet and Confer process, the Agency clarified that the \$30,000 requested in the ROPS 13-14A period has not been expended and is requesting the use that \$30,000 in the ROPS 13-14B period. Therefore, the full \$60,000 is eligible for Reserves funding on this ROPS.
- Item No. 7 – Relocation and Maintenance Contracts in the amount of \$43,619. Finance no longer denies this item. Finance initially denied this item as the Agency was allowed to retain \$86,537 from the Low and Moderate Income Housing Fund Due Diligence Review and has been approved to expend \$86,437 through ROPS 13-14A. During the Meet and Confer process, the Agency clarified that the amount requested in the ROPS 13-14A period has not been expended and is requesting the use of those funds in the ROPS 13-14B period. Therefore, the \$4,739 requested is eligible for Reserves funding on this ROPS.

- Item Nos. 54 through 58 – 1999, 2003, and 2007 Tax Allocation Bonds in the amount of \$1,357,543. Finance no longer denies these items. The Agency requested \$4,154,702 from the Redevelopment Property Tax Trust Fund (RPTTF); however, Finance initially denied \$1,357,543 as the total amount due during ROPS 13-14B is \$2,797,159. HSC section 34171 (d) (1) (A) allows agencies to hold a reserve for debt service payments when required by the bond indenture, or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year. Based on our review of the bond indentures, we did not note any requirement to create such reserves. Additionally, based on the history of the Agency's distributions, it is our understating the next property tax allocation will be sufficient to make debt service payments due for these items.

During the Meet and Confer process, the Agency contended that the bond indentures require that all tax revenues are pledged to debt service until all of the principal and interest due in the bond year have been fully funded. The Agency provided the bond documents that state this requirement. Therefore, the requested RPTTF funding has been approved in the amounts of \$2,797,159 for debt service in the ROPS 13-14B period and \$1,357,543 for debt service in the ROPS 14-15A period.

Finance notes that pursuant to HSC section 34183 (a) (2) (A), debt service payments have first priority for payment from distributed RPTTF funding. As such, the additional \$1,357,543 requested to be held in reserve should be transferred upon receipt to the bond trustee(s) along with the amounts approved for the other ROPS 13-14B debt service payments prior to making any other payments on approved ROPS items. Any requests to fund these items again in the ROPS 14-15A period will be denied unless insufficient RPTTF is received to satisfy both the debt service payments due during the ROPS 13-14B period and the reserve amounts requested in ROPS 13-14B for the ROPS 14-15A debt service payments.

- Item No. 65 – EBRPD Fiscal Agreement in the amount of \$500,000. Finance continues to deny this item at this time. According to the agreement, entered into on May 8, 1990, within four years of the date of the adoption of the plan, the Agency will negotiate a subsequent agreement regarding payments. Finance initially denied this item as it was our understanding the subsequent agreement for this line item was executed after June 27, 2011. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011.

During the Meet and Confer process, the Agency contended that the obligation to fund the public improvements continues to be an enforceable obligation since the purpose of the agreement was to protect a taxing entity from the loss of property tax revenues resulting from the adoption of the Redevelopment Plan. Based upon a further review of the agreement, the Agency's obligation shall commence at the time the improvements are undertaken by the EBRPD or such time as is negotiated in the agreement. Since the agreement was never negotiated and entered into, the Agency's obligation does not begin until the improvements are started. The agreement also indicates that the Agency and the EBRPD can enter into a reimbursement agreement whereby the Agency will agree to reimburse the EBRPD for the costs of the improvements. Since no documents have been provided indicating that the improvements have commenced or that costs have been incurred for reimbursement, this line item is not eligible for RPTTF funding at this time.

- Item Nos. 82 through 84, and 91 – Various Hookston Station Remediation/Iron Horse Trail costs totaling \$177,715. Finance no longer denies these items. Finance initially denied these items as the former redevelopment agency is not a party to the obligation for remediation costs. During the Meet and Confer process, the Agency provided the Settlement Agreement dated October 1, 1998, between the County of Contra Costa, the former redevelopment agency, and the Hookston Group. These line items are the costs to be incurred by the Agency to implement the requirements in the Settlement Agreement. Therefore, these line items are enforceable obligations and are eligible for Reserves and RPTTF funding as requested.
- Item No. 100 – Tri City Remediation Phase II in the amount of \$174,501 for Reserves and RPTTF funding. Finance continues to deny this item. Finance initially denied this item as the Agency was unable to provide sufficient documentation to support the amounts claimed. During the Meet and Confer process, the Agency contended that this item is related to the costs associated with the relocation and demolition of the former concrete mixing plant and returning the site to the original condition. However, the Agency did not provide any documents indicating that these costs are required to be incurred with an enforceable obligation existing prior to June 27, 2011. The cost breakdown provided appears to consist of costs related to preparing the property for disposition. However, since the Agency's Long Range Property Management Plan (LRPMP) has not been reviewed or approved, Finance cannot determine if these costs will be necessary or if they are reasonable. Additionally, these costs appear to be improvements to the property and are beyond routine maintenance and repairs that would be associated with maintaining the property in the current condition. Therefore, this item is not eligible for Reserves or RPTTF funding.
- Item Nos. 103, 106, 107, 119, and 120 – Various Requests to Return Funds to the Housing Successor totaling \$31,907. Finance continues to deny these items. The Agency contends the funds were deposited in error to the Low and Moderate Income Housing Fund (LMIHF), and remitted to the affected taxing entities during the LMIHF Due Diligence Review (DDR). The amount determined to be available for remittance to the taxing entities was upheld through the Meet and Confer process in the letter dated February 21, 2013, and there is no mechanism in statute that allows Finance to accept revised DDRs. Furthermore, requesting a return of funds does not meet the definition of an enforceable obligation as defined in HSC section 34171 (d). During the Meet and Confer process, the Agency contended that the loan repayments are enforceable obligations pursuant to HSC section 34171 (d) (1) (G). However, this section does not apply as these amounts were not borrowed from or owing to the LMIHF. As such, there is no mechanism in statute to allow the Agency to transfer funds to the Housing Successor. Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding.
- Item Nos. 104 and 105 – Iron Horse Remediation and Project Management costs totaling \$95,000. Finance no longer denies \$20,000 of Item No. 104 for weed abatement and continues to deny \$65,000 of Item No. 104 and \$10,000 of Item No. 5. Finance initially denied these items as the Agency was unable to provide sufficient documentation to support the amounts claimed. During the Meet and Confer process, the Agency provided a breakdown of the proposed costs, which includes soil testing, waterline parcel testing, and weed abatement. Since the Agency's LRPMP has not been reviewed or approved, Finance cannot determine if these costs will be necessary or if

they are reasonable. However, the \$20,000 for weed abatement is an enforceable obligation as a cost to maintain the properties prior to disposition. Therefore, \$20,000 of Item No. 104 is eligible for RPTTF and the remaining amounts for Item Nos. 104 and 105 are not enforceable obligations and are not eligible for RPTTF funding.

- Item Nos. 111 through 115 – Various Projects Management costs totaling \$7,685,756. Finance no longer denies these items. Finance initially denied these items as the Agency was unable to provide sufficient documentation to support the amounts claimed. During the Meet and Confer process, the Agency provided a breakdown of the estimated costs for each of the projects to be funded with approximately \$6.4 million in excess housing bond proceeds and \$1.3 million in excess bond proceeds issued prior to January 1, 2011, and to be managed by the Housing Successor Entity. The Agency received a Finding of Completion on July 18, 2013, and is eligible to spend excess bond proceeds in a manner consistent with the original bond covenants pursuant to HSC section 34191.4 (c). Therefore, these items are eligible for Bond funding.
- Item Nos. 116 through 118 – Various Requests to Return Funds to the Agency totaling \$15,120. Finance continues to deny these items. The Agency contends the funds were erroneously identified as cash in the LMIHF DDR, and thus remitted to the affected taxing entities in error. The amount determined to be available for remittance to the taxing entities was upheld through the Meet and Confer process in the letter dated July 11, 2013; there is no mechanism in statute that allows Finance to accept revised DDRs. Furthermore, requesting a return of funds does not meet the definition of an enforceable obligation as defined in HSC section 34171 (d). Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding.

In addition, per Finance's letter dated November 14, 2013, we continue to deny the following item not contested by the Agency during the Meet and Confer:

- Item No. 81 – Property Maintenance costs in the amount of \$28,274. Finance continues to deny this item. Allocating funds for unknown contingencies is not an allowable use of funds. Therefore, this line item is not eligible for additional Reserves funding.

Pursuant to HSC section 34186 (a), successor agencies were required to report the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. The amount of RPTTF approved in the table below includes the prior period adjustment that was self-reported by the Agency. HSC section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the table below includes only the prior period adjustment that was self-reported by the Agency.

Except for the items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14B.

The Agency's maximum approved RPTTF distribution for the reporting period is \$6,473,088 as summarized below:

<b>Approved RPTTF Distribution Amount For the period of January through June 2014</b>	
Total RPTTF requested for non-administrative obligations	7,026,442
Total RPTTF requested for administrative obligations	133,174
<b>Total RPTTF requested for obligations</b>	<b>\$ 7,159,616</b>
<b>Total RPTTF requested for non-administrative obligations</b>	<b>7,026,442</b>
<u>Denied Items</u>	
Item No. 65	(500,000)
Item No. 100	(64,501)
Item No. 103	(5,363)
Item No. 104	(65,000)
Item No. 105	(10,000)
Item No. 106	(13,221)
Item No. 107	(694)
Item No. 116	(4,615)
Item No. 117	(4,835)
Item No. 118	(5,670)
Item No. 119	(10,000)
Item No. 120	(2,629)
	(686,528)
<b>Total RPTTF approved for non-administrative obligations</b>	<b>6,339,914</b>
<b>Total RPTTF allowable for administrative obligations</b>	<b>133,174</b>
<b>Total RPTTF approved for obligations</b>	<b>6,473,088</b>
ROPS III prior period adjustment	-
<b>Total RPTTF approved for distribution</b>	<b>\$ 6,473,088</b>

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. Beginning with the ROPS 13-14B period, Finance required successor agencies to identify fund balances for various types of funds in its possession. During our ROPS 13-14B review, Finance requested financial records to support the fund balances reported by the Agency; however, Finance was unable to reconcile the financial records to the amounts reported. As a result, Finance will continue to work with the Agency after the ROPS 13-14B review period to properly identify the Agency's fund balances. If it is determined the Agency possesses fund balances that are available to pay approved obligations, the Agency should request the use of these fund balances prior to requesting RPTTF in ROPS 14-15A.

Please refer to the ROPS 13-14B schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14B Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%2013-14B%20Forms%20by%20Successor%20Agency/).

This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2014. This determination applies only to items where funding was requested for the six month period. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC section

34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010, exist and are not encumbered by an enforceable obligation pursuant to HSC section 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Please direct inquiries to Evelyn Suess, Supervisor, or Mary Halterman, Lead Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Assistant Program Budget Manager

cc: Mr. Steven Goetz, Deputy Director: Transportation, Conservation and Redevelopment Programs, Contra Costa County  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County  
California State Controller's Office