DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 17, 2013

Mr. Scott Hanin, City Manager
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Mr. Hanin:

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 City of El Cerrito 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 4, 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. 5 – 2004 Housing Tax Allocation Bonds in the amount of $203,360. Finance no longer denies this amount. During the Meet and Confer, the Agency stated that they historically requested the next period's debt service because the payments are due January 1 and July 1, and must be received by the trustee in a timely manner. Our review indicates that the Agency erroneously requested $134,887 for their 2004 Housing bonds during the January through June 2013 (ROPS III) period when the actual debt service due that period was $164,887. The Agency provided documentation to substantiate that they paid the $164,887 during the ROPS III period. Therefore, the Agency is approved to receive $203,630 in RPTTF this period.

- Item No. 18 – Eden Housing Loan Agreement (Agreement) in the amount of $250,000. Finance continues to deny this item. The Agreement was previously denied and upheld during the ROPS period January through June 2013 (ROPS III) Meet and Confer determination letter dated December 18, 2012. Pursuant to HSC 34163 (b), an agency is prohibited from entering into any agreement after June 27, 2011. ABx1 26 requires agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies (RDAs) and provides successor agencies with limited authority only to the extent needed to implement the wind down of RDA

affairs. Therefore, the item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 19 – Cooperation Agreement (Agreement) with El Cerrito Municipal Services Corporation (MSC) in the amount of $3,287,000. Finance continues to deny this item; the Agreement was previously denied and upheld during the ROPS period January through June 2013 (ROPS III) Meet and Confer determination letter dated December 18, 2012, and during the ROPS period July through December 2013 (ROPS 13-14A) Meet and Confer determination letter dated May 17, 2013. Finance denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable.

  MSC is considered part of the City per HSC section 34167.10 (a) (3). The Agency contends the MSC is a separate and distinct entity from the City. However, the City of El Cerrito's (City) Comprehensive Annual Financial Report for the Year Ended June 30, 2011, states that "the City, the El Cerrito Redevelopment Agency, the El Cerrito Public Financing Authority, and the El Cerrito Municipal Services Corporation which are legally separate but are component units of the City because they are controlled by the City, which is financially accountable for their activities." Per HSC section 34167.10 (c), it shall not be relevant that the entity is formed as a separate legal entity, nonprofit corporation, or otherwise, or is not subject to the constitution debt limitation otherwise applicable to a city, county, or city and county. Therefore, the MSC is considered part of the City. As noted above, HSC section 34171 (d) (2) applies; therefore this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 21 – City Litigation Cost in the amount of $125,000. Finance no longer denies this item. During the Meet and Confer, the Agency provided supporting documentation to identify that the Agency has incurred legal expenses for pre-litigation work. HSC section 34171(b) allows for litigation expenses related assets or obligations to be excluded from the Agency's administrative costs. Therefore, this item is approved for a distribution of $125,000 in RPTTF this period.

During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that are required to be used prior to requesting RPTTF. Pursuant to HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.

Therefore, the funding source for the following item has been reclassified to Other Funds and in the amount specified below:

- Item No. 14 – Due Diligence Review cost in the amount of $12,868. The Agency requested to retain $12,868 in additional RPTTF funding for this item; the Agency was approved to spend $30,000 during ROPS for the period January through June 2013 (ROPS III) period, however, the Agency did not receive sufficient RPTTF. Subsequently, the Agency received a shortfall loan from the City. The Agency intends to use funds remaining from the shortfall loan to fund this item during ROPS 13-14B. Therefore, Finance is approving the use of Other Funds in the amount of $12,868 for Item No. 14.

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 or for the item that have been reclassified, 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 $2,137,918 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014		
Total RPTTF requested for non-administrative obligations		3,000,786
Total RPTTF requested for administrative obligations		-
Total RPTTF requested for obligations	**$**	**3,000,786**
Total RPTTF requested for non-administrative obligations		**3,000,786**
Denied Items		
Item No. 18		(250,000)
Item No. 19		(600,000)
		(850,000)
Reclassified Items		
Item No. 14		(12,868)
Total RPTTF approved for non-administrative obligations		**2,137,918**
Total RPTTF approved for administrative obligations		**-**
Total RPTTF approved for obligations		**2,137,918**
Self-Reported ROPS III prior period adjustment (PPA)		
Total RPTTF approved for distribution	**$**	**2,137,918**

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/.

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, Dispute Resolution Supervisor or Derk Symons, Lead Analyst, at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Lori Trevino, Finance Manager/Special Projects, City of El Cerrito
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
California State Controller's Office