

December 17, 2013

Mr. Christopher J Jicha, Senior Consultant, Kosmont Companies
City of Los Banos Designated Local Authority
865 South Figueroa Street, 35th Floor
Los Angeles, CA 90017

Dear Mr. Jicha:

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 Los Banos Designated Local Authority (Authority) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on October 1, 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.

- Items Nos. 22, 23, and 29 – Audit fees and legal costs in the amount of \$22,000. Finance no longer reclassifies Item Nos. 23 and 29 totaling \$17,000 as administrative costs, but continues to reclassify Item No. 22 totaling \$5,000 as an administrative cost. Finance initially determined that these items were considered general administrative costs.

The Agency contends that Item No. 22 is for litigation expenses; however, litigation has not yet commenced. Therefore, Finance continues to reclassify Item No. 22 as an administrative cost. To the extent litigation commences during the ROPS 13-14B period, the Agency should place those items on a future ROPS for review.

The Agency contends that Item No. 23 is for costs directly associated with Item No. 25, which is an enforceable obligation approved for payment during the ROPS 13-14B period. Since Item No. 25 is determined to be an enforceable obligation, the direct project costs associated with the project are also enforceable. Therefore, Finance no longer reclassifies Item No. 23 as an administrative cost.

The Agency contends that Item No. 29 is related to audit fees associated with HSC section 34177 (n), which states that an agency is required to cause a post audit of the agency's financial transactions. During the Meet and Confer process, the Authority

provided the contract for these specific audit services. Therefore, Finance no longer reclassifies Item No. 29 as an administrative cost.

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

- Item No. 38 – January through June 2013 Recognized Obligation Payment Schedule (ROPS III) unfunded obligations in the amount of \$302,269. Finance approved a total of \$1,413,734 of Redevelopment Property Tax Trust Fund (RPTTF); however, the Agency claims that only \$1,046,065 was available in RPTTF, leaving a shortfall of \$367,669. Of this shortfall amount, the \$302,269 was placed on ROPS 13-14B and the difference of unavailable admin RPTTF in the amount of \$65,400 was not requested for funding. Based on a review of the ROPS III Report of Prior Period Payments, the Agency has reported actual expenditures in the amount of \$1,335,434 which indicates a portion of the unfunded amounts claimed were funded through another available funding source. Therefore, the amount claimed is not supported and not eligible for RPTTF funding.
- Item No. 39 – July through December 2013 Recognized Obligation Payment Schedule (ROPS 13-14A) unfunded obligations in the amount of \$422,749. Finance approved \$1,636,156 RPTTF distribution; however, the Agency is reporting available RPTTF as \$1,213,407 with an estimated shortfall of \$422,749. Since the ROPS 13-14A period has not concluded, the Agency cannot support the actual expenditures for the period and remaining unpaid obligations. Therefore, the Agency should request the unpaid obligations on the next ROPS.

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 items denied in whole or in part as enforceable obligations or for the item that has 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 \$1,261,721 as summarized below:

| Approved RPTTF Distribution Amount For the period of January through June 2014 | |
|---|---------------------|
| Total RPTTF requested for non-administrative obligations | 1,869,432 |
| Total RPTTF requested for administrative obligations | 117,307 |
| Total RPTTF requested for obligations | \$ 1,986,739 |
| Total RPTTF requested for non-administrative obligations | 1,869,432 |
| <u>Denied Items</u> | |
| Item No. 38 | (302,269) |
| Item No. 39 | (422,749) |
| | (725,018) |
| <u>Reclassified Items</u> | |
| Item No. 22 | (5,000) |
| Total RPTTF approved for non-administrative obligations | 1,139,414 |
| Total RPTTF requested for administrative obligations | 117,307 |
| <u>Reclassified Items</u> | |
| Item No. 22 | 5,000 |
| Total RPTTF for administrative obligations | 122,307 |
| Total RPTTF approved for obligations | 1,261,721 |
| ROPS III prior period adjustment | - |
| Total RPTTF approved for distribution | \$ 1,261,721 |

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 Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Michael Amabile, Chair, Los Banos Designated Local Authority, City of Los Banos
Designated Local Authority
Ms. Sylvia Sanchez, Supervising Accountant, Merced County
California State Controller's Office