



May 16, 2014

Mr. Rene L. Mendez, City Manager
City of Gonzales
P. O. Box 647
Gonzales, CA 93926

Dear Mr. Mendez:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 14, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Gonzales Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to Finance on March 3, 2014, for the period of July through December 2014. Finance issued a ROPS determination letter on April 14, 2014. 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 May 5, 2014.

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 Nos. 3 and 4 – Reimbursement and Loan Agreements with the City of Gonzales (City) totaling \$11,829,782. Finance continues to deny these items. Pursuant to HSC section 34191.4 (b), loan agreements between the former redevelopment agency (RDA) and its sponsoring entity may be placed on the ROPS if the Agency has received a Finding of Completion and the Agency's oversight board approves the loan as an enforceable obligation by finding the loan was for legitimate redevelopment purposes.

The Agency received a Finding of Completion on June 4, 2013. However, OB Resolution 2012-01, approving the Reimbursement Agreement between the City and the former RDA dated June 1, 2011, and the Loan Agreement between the City and the RDA dated June 1, 2011, does not specifically make a finding the loan was for a legitimate redevelopment purposes. As such, this item is not eligible for funding. Once the oversight board approves the loan as an enforceable obligation by finding the loan was for legitimate redevelopment purposes and the corresponding OB action is approved by Finance, the Agency may be able to request funding for this item on future ROPS.

During the Meet and Confer process, the Agency clarified that Item No. 3 – Reimbursement Agreement is to reimburse the City for all lease payments to be made under the 2011 Lease Revenue Bonds issued by the former RDA. Under the Lease Agreement and Indenture of Trust, the City is to make semi-annual payments for the

principal and interest on the bonds. Under the Reimbursement Agreement the former RDA was to reimburse the City for these payments. HSC section 34171 (d) (2) states that written agreements entered into at the time of issuance, *but in no event later than* December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations. Although the Reimbursement Agreement is solely for the purpose of securing or repaying indebtedness obligations, it was entered into *after* December 31, 2010. Therefore, this item does not meet the exception defined in HSC section 34171 (d) (2).

The Agency also clarified that Item No. 4 – Loan Agreement is to reimburse the City for a \$1,000,000 loan provided to the former RDA in 2011 for the purpose of refunding the 2006 Tax Allocation Notes issued by the former RDA. As previously stated, the Agency received a Finding of Completion on June 4, 2013; however, the oversight board has not approved these loans as enforceable obligations by finding the loans were for legitimate redevelopment purposes. Therefore, these items are currently not eligible for funding.

- Item No. 16 – Debt Service Reserve in the amount of \$450,907 is not allowed. Finance continues to deny this item. It is our understanding the Agency requests funding to replenish debt service reserve funds. However, Finance denied this item as the Agency has always received sufficient RPTTF to make debt service payments approved on the ROPS.

During the Meet and Confer process, the Agency stated that due to “cash flow insolvency problems,” the Agency has had to draw on its debt service reserve funds to make a portion of the debt service payments. However, according to our records, Finance has always approved funding from the RPTTF for the bond debt service obligations and the Agency has received sufficient RPTTF funding to pay these approved obligations. However, the Agency has continually paid other obligations as well as administrative costs before paying debt service. For example, in December 2012, the Agency claims to have drawn from debt service reserves in the amount of \$219,988 because they had insufficient funds to pay debt service; however, our records show that the Agency spent \$299,518 on non-debt service related obligations during the January through June 2012 (ROPS I) period and the July through December 2012 (ROPS II) period, which is in violation of HSC section 34183 (a) (2).

HSC section 34183 (a) (2) explicitly requires debt service payments to be made first, followed by revenue bonds (to the extent revenues are insufficient to cover the payments due), and all other obligations, if sufficient RPTTF funding remains. To the extent the Agency has not been funding approved enforceable obligations in the order required under HSC section 34183 (a) (2), the Agency is in violation of the law and should reverse those non-debt service transactions that are subordinate to the Agency’s debt service payments. Once corrected, the Agency should return the funding to the Debt Service Reserve Fund.

Furthermore, HSC section 34177 (a) (3) states that only those payments listed on the approved ROPS may be made from the funding source specified in the ROPS. HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. However, no such approval was presented to Finance, and as such, our records indicate that the Agency’s reserve balances have not been depleted. Again, to the extent funding was moved inappropriately out of the Debt

Service Reserve Fund, the Agency should return the funds to the proper account. Additionally, if the Agency does anticipate shortfalls in RPTTF funding, HSC section 34171 (d) (1) (A) permits reserves to be held only when required by the bond indenture, or when the next property tax allocation will be insufficient to pay the next bond payment due in the following half of the fiscal year.

Therefore, for all the reasons stated above, this item is not eligible for additional RPTTF funding.

- Item No. 17 – City Loan in the amount of \$185,630. Finance continues to deny this item. HSC section 34173 (h) permits the city, county or city and county that authorized the creation of a RDA to loan or grant funds to the successor agency for administrative costs, enforceable obligations, or project related expenses at the city's discretion. It is our understanding the loan was requested to repay debt service reserve funds. However, Finance denied this item because the Agency has received sufficient RPTTF funding for bond debt service payments based upon our review of Monterey County Auditor-Controller distribution reports. During the Meet and Confer process, the Agency contended that due to the Agency drawing on debt service reserve funds to make debt service payments, the Agency requested a loan from the City to replenish the debt service reserve fund. However, for all the reasons previously stated for Item No. 16, this item is not eligible for additional RPTTF funding.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2013 period. The amount of RPTTF approved in the table below includes the prior period adjustment self-reported by the Agency. HSC section 34186 (a) also specifies 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 only includes the prior period adjustment self-reported by the Agency.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 14-15A. The Agency's maximum approved RPTTF distribution for the reporting period is \$853,346 as summarized in the following table:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	1,502,360
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 1,627,360
Total RPTTF requested for non-administrative obligations	1,502,360
<u>Denied Items</u>	
Item No. 3	(216,410)
Item No. 4	(60,000)
Item No. 16	(450,907)
Item No. 17	(46,697)
	(774,014)
Total RPTTF authorized for non-administrative obligations	\$ 728,346
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 853,346
Self-reported ROPS 13-14A prior period adjustment (PPA)	0
Total RPTTF approved for distribution	\$ 853,346

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. During the ROPS 14-15A review, Finance requested financial records to support the cash 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 14-15A review period to properly identify the Agency's cash balances. If it is determined the Agency possesses cash balances that are available to pay approved obligations, the Agency should request the use of these cash balances prior to requesting RPTTF in ROPS 14-15B.

Please refer to the ROPS 14-15A schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS>

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2014. This determination only applies 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),

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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 Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Thomas Truszkowski, Community Development Director, City of Gonzales
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office