



December 17, 2014

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 13, 2014. 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 14-15B) to Finance on October 2, 2014, for the period of January through June 2015. Finance issued a ROPS determination letter on November 13, 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 November 24, 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 No. 22 – Eden Housing Loan Agreement in the amount of \$250,000 is not allowed. Finance continues to deny this item. Finance previously denied and upheld the denial during the previous period ROPS Meet and Confer process. Finance denied the item as the Predevelopment Loan Agreement (PLA) has expired by its own terms. Pursuant to Section 1.1 – Definitions, the term of the agreement “shall commence on the Effective Date and shall terminate on the second...anniversary of the Effective Date, unless sooner terminated”; the effective date is May 17, 2011 and the second anniversary or termination date is May 17, 2013. Therefore, the Agency no longer has an obligation under the PLA.

The former Redevelopment Agency (RDA) and Eden Housing, Inc. entered into the PLA in May 17, 2011 in conjunction with an Exclusive Negotiating Rights Agreement. During the Meet and Confer process, the Agency stated that the City of El Cerrito (City) as Housing Successor assumed the obligations of the RDA with respect to the Exclusive Negotiating Rights Agreement and has negotiated and entered into the Disposition Development and Loan Agreement (DDLA) on April 22, 2014 that was contemplated in the PLA. However, any agreements entered into by the City as Housing Successor are the obligation of the Housing Successor, not the Agency. HSC section 34177.3 (a) states that successor agencies shall lack authority to, and shall not, create new enforceable obligations. Therefore, because the Agency has no authority to enter into agreements, the Agency is

not responsible for any commitments made by the City under the newly entered DDLA. As such, this line item is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item No. 24 – San Pablo Avenue Streetscape in the amount of \$431,599 is not an obligation of the Agency. Finance continues to deny this item. Finance denied this item because the former RDA is not a party to the agreements based on the City resolutions provided by the Agency; the agreements subject to the request were entered into by the City and various third parties. During the Meet and Confer process, the Agency continued to object to Finance’s determination; however, no new information was provided. The Agency continues to contend that the former RDA had a long standing financial commitment to the City to fund certain infrastructure costs incurred by the City and the amount requested is related to the former RDA failing to meet its obligation to the City. However, 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. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15B form the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2014 period. The amount of RPTTF approved in the table below reflects 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 review by the county auditor-controller (CAC) and the State Controller. Proposed CAC adjustments were not received in time for inclusion in this letter; therefore, the amount of RPTTF approved in the table below only reflects the prior period adjustment self-reported by the Agency.

Except for the items denied in whole or in part, Finance is not objecting to the remaining items listed on your ROPS 14-15B. The Agency’s maximum approved RPTTF distribution for the reporting period is \$1,521,831 as summarized in the Approved RPTTF Distribution Table below:

Approved RPTTF Distribution For the period of January through June 2015	
Total RPTTF requested for non-administrative obligations	2,078,430
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations on ROPS	\$ 2,203,430
Total RPTTF requested for non-administrative obligations	2,078,430
<u>Denied Items</u>	
Item No. 22	(250,000)
Item No. 24	(431,599)
	(681,599)
Total RPTTF authorized for non-administrative obligations	\$ 1,396,831
Total RPTTF requested for administrative obligations	125,000
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 1,521,831
ROPS 13-14B prior period adjustment	0
Total RPTTF approved for distribution	\$ 1,521,831

Please refer to the ROPS 14-15B 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 January 1 through June 30, 2015. 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 the 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 agency in the RPTTF.

Pursuant to HSC section 34177 (a) (3), only those payments listed on an approved ROPS may be made by the successor agency from the funds specified in the ROPS. However, if for whatever reason the Agency needs to make payments for approved obligations from another funding source, HSC section 34177 (a) (4) requires the Agency to first obtain oversight board approval.

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

Sincerely,



JUSTYN HOWARD
Acting Program Budget Manager

cc: Ms. Hilde Myall, Senior Program Manager, City of El Cerrito
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
California State Controller's Office