

May 15, 2015

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 April 10, 2015. Pursuant to Health and Safety Code (HSC) section 34177 (m), the Contra Costa County Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16A) to Finance on February 26, 2015, for the period of July through December 2015. Finance issued a ROPS determination letter on April 10, 2015. Subsequently, the Agency requested a Meet and Confer session on one or more of the determinations made by Finance. The Meet and Confer session was held on April 27, 2015.

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 determinations being disputed.

- Item Nos. 59 and 124 – Contra Costa County loan repayment totaling \$300,332 is not allowed. Finance continues to deny these items. Pursuant to HSC section 34191.4 (b), loan agreements between the former redevelopment agency (RDA) and sponsoring entity may be placed on the ROPS if the following requirements are met: (1) The Agency has received a Finding of Completion; and (2) 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 July 18, 2013. Oversight Board (OB) Resolution 2015-2 approved the repayment schedule for the Montalvin Manor loans in the amount of \$239,470 and the associated Housing Asset Fund Obligation in the amount of \$50,055 as enforceable obligations. However, OB Resolution 2015-2 was denied in our letter dated April 10, 2015, because the OB did not make a required finding the loan was for legitimate redevelopment purposes.

During the Meet and Confer process, the Agency contended that the OB had previously made a finding in a prior OB resolution that the loan was for legitimate redevelopment purposes. However, the OB resolution provided makes no such statement and even if such a statement were included, the OB resolution is not related to establishing the agreement as a post compliance loan pursuant to HSC section 34191.4 (b). Therefore,

Finance continues to deny Item No. 59 because the OB has not made the required finding that the loan was for legitimate redevelopment purposes. To the extent the OB makes such a finding in the future, the Agency may relist Item No. 59 for review on a future ROPS.

For Item No. 124, the Agency contended that this item is needed in order to provide adequate funding for the 20 percent affordable housing set aside required pursuant to HSC section 34191.4 (b) (2) (C) while ensuring that the entire principal balance of the loan is repaid. However, this section specifically states that "twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the Low and Moderate Income Housing Asset Fund;" it does not state that the 20 percent to be deposited is in addition to the amount being repaid. Therefore, Item No. 124 is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item No. 65 – Fiscal Agreement in the amount of \$500,000. Finance continues to deny this item. Finance initially denied this item because the Agency was unable to provide sufficient documentation to support the amounts claimed. 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 former Redevelopment Agency's (RDA's) obligation was to commence at the time the improvements were undertaken by the EBRPD or such time as was negotiated in the agreement regarding payments, which was to be agreed to within four years of the date of the Redevelopment Plan adoption.

Since EBRPD did not commence the improvements within the first four years or negotiate a different commence date in an agreement regarding payments with the former RDA, this agreement has expired by its own terms. Furthermore, even if an agreement regarding payments had been negotiated, the Agency would not be able to make the payments pursuant to the terms of this agreement. This agreement limits the obligation to be paid from the amount of tax increment revenue received by the former RDA in excess of the amount needed to complete the items shown on the former RDA's current five-year budget, which must be adopted prior to the commencement date of the fiscal year for which EBRPD requests assistance. The former RDA no longer exists to adopt a five-year budget on which to base any amounts in excess of the amount needed. Therefore, this item is not an enforceable obligation and not eligible for funding.

In addition, per Finance's letter dated April 10, 2015, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item No. 85 – Technical Assistance services in the amount of \$30,000 are not allowed. The Agency provided an Interagency Agreement (Agreement) between the Contra Costa County Public Works Department and the Agency, for the maintenance of Agency held properties, hazardous materials testing, demolition of structures, and the implementation of a remediation plan. However, the Agency was not able to identify which properties are subject to the Agreement, and the Oversight Board (OB) has not approved the Agreement. HSC section 34180 (i) requires the OB to review and approve any agreements. Once approved by the OB, and the necessary disposition costs are

identified by property, the Agency may be able to obtain Reserve Balances funding on future ROPS.

- Claimed administrative costs exceed the allowance by \$5,000. HSC section 34171 (b) limits fiscal year 2015-16 administrative expenses to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$250,000 in administrative expenses. Although \$250,000 is claimed for administrative cost, Item No. 123 for Financial Advisor services in the amount of \$5,000 is considered an administrative expense and should be counted toward the cap. Therefore, \$5,000 of excess administrative cost is not allowed.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 15-16A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2014 period. 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. 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 or item that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 15-16A. The Agency's maximum approved RPTTF distribution for the reporting period is \$5,274,937 as summarized in the Approved RPTTF Distribution table below:

<b>Approved RPTTF Distribution For the period of July through December 2015</b>	
Total RPTTF requested for non-administrative obligations	5,661,418
Total RPTTF requested for administrative obligations	250,000
<b>Total RPTTF requested for obligations on ROPS</b>	<b>\$ 5,911,418</b>
<b>Total RPTTF requested for non-administrative obligations</b>	<b>5,661,418</b>
<u>Denied Items</u>	
Item No. 59	(250,277)
Item No. 65	(9,856)
Item No. 124	(50,055)
	(310,188)
<u>Reclassified Item</u>	
Item No. 123	(5,000)
<b>Total RPTTF authorized for non-administrative obligations</b>	<b>\$ 5,346,230</b>
<b>Total RPTTF requested for administrative obligations</b>	<b>250,000</b>
<u>Reclassified Item</u>	
Item No. 123	5,000
Administrative costs in excess of the cap (see Admin Cost Cap table below)	(5,000)
<b>Total RPTTF authorized for administrative obligations</b>	<b>\$ 250,000</b>
<b>Total RPTTF authorized for obligations</b>	<b>\$ 5,596,230</b>
ROPS 14-15A prior period adjustment	(321,293)
<b>Total RPTTF approved for distribution</b>	<b>\$ 5,274,937</b>

<b>Administrative Cost Cap Calculation</b>	
Total RPTTF for non-administrative obligations	5,591,076
Percent allowed pursuant to HSC section 34171 (b)	3%
<b>Total RPTTF allowable for administrative obligations</b>	<b>167,732</b>
Total RPTTF administrative obligations after Finance adjustments	255,000
Total RPTTF administrative obligations Requested	250,000
<b>Administrative costs in excess of the cap</b>	<b>\$ (5,000)</b>

Please refer to the ROPS 15-16A 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, 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 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) 445-3274.

Sincerely,



JUSTYN HOWARD  
Program Budget Manager

cc: On following page

Ms. Maureen Toms  
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cc: Mr. Jason Crapo, Deputy Director, Contra Costa County  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County  
California State Controller's Office

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