



April 3, 2015

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

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 15-16A) to the California Department of Finance (Finance) on February 26, 2015 for the period of July 1 through December 31, 2015. Finance has completed its review of your ROPS 15-16A, which may have included obtaining clarification for various items.

Based on a sample of line items reviewed and application of the law, Finance made the following determinations:

- Item No. 22 – Eden Housing Loan Agreement in the amount of \$250,000 is not allowed. Finance continues to deny this item. 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 on May 17, 2011 in conjunction with an Exclusive Negotiating Rights Agreement (ENA). 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 ENA 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. 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 Streetscapes 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. The Agency contended 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 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 Redevelopment Property Tax Trust Fund (RPTTF) approved in the table below only reflects the prior period adjustment (PPA) self-reported by the Agency. The Agency informed Finance that the self-reported PPA was understated by \$3,300. Therefore, the PPA has been updated to \$75,650

Except for the items denied in whole or in part, Finance is not objecting to the remaining items listed on your ROPS 15-16A. If you disagree with the determination with respect to any items on your ROPS 15-16A, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

[http://www.dof.ca.gov/redevelopment/meet and confer/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's maximum approved RPTTF distribution for the reporting period is \$1,456,261 as summarized in the Approved RPTTF Distribution table below:

Approved RPTTF Distribution	
For the period of July through December 2015	
Total RPTTF requested for non-administrative obligations	2,088,510
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations on ROPS	\$ 2,213,510
Total RPTTF requested for non-administrative obligations	2,088,510
<u>Denied Items</u>	
Item No. 22	(250,000)
Item No. 24	(431,599)
	(681,599)
Total RPTTF authorized for non-administrative obligations	\$ 1,406,911
Total RPTTF requested for administrative obligations	125,000
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 1,531,911
ROPS 14-15A prior period adjustment	(75,650)
Total RPTTF approved for distribution	\$ 1,456,261

Please refer to the ROPS 15-16A schedule that was used to calculate the approved RPTTF amount:

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

Absent a Meet and Confer, 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 up to the amount authorized by Finance. 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. Additionally, HSC sections 34177 (a) (4) and 34173 (h) provide mechanisms when Agency payments must exceed the amounts authorized by Finance. Please ensure the proper expenditure authority is received from your Oversight Board and Finance prior to making payments on enforceable obligations.

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 Nichelle Thomas, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

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