



September 28, 2012

Mr. Kevin Riper, Finance Director
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Dear Mr. Riper:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Morgan Hill (City) Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 16, 2012 for the period of January through June 2013. Finance has completed its review of your ROPS III, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on a sample of line items reviewed and application of the law, the following do not qualify as enforceable obligations:

- Item No. 1.2 – 2008 Tax Allocation Bonds Series A & B payment request of Redevelopment Property Tax Trust Fund (RPTTF) in the amount of \$1,950,500. These bonds are Variable Rate Tax Allocation Bonds; therefore, there is no fixed rate each year. The amount listed on ROPS III is the maximum interest rate the Agency could be charged. However, this amount is not realistic. On ROPS I, the Agency requested \$2 million, however, they actually only paid \$66,795. Since the interest rates are not known at this time, we would expect to see some cushion, but the estimate should be reasonable and in line with historical interest rates. Therefore, the current request of \$1,950,500 has been reduced by \$1,875,500, providing \$75,000 to make the bond payment for the ROPS III period.
- Item No. 9 – Administrative cost claimed exceeds the allowance by \$181,734. HSC section 34171 (b) limits fiscal year 2012-13 administrative costs to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. As a result, the City is eligible for a \$250,000 administrative costs allowance. The Santa Clara Auditor Controller's Office distributed \$184,910 of administrative costs for the July through December 2012 period, thus leaving a balance of \$65,090 available for the January through June 2013 period. Although \$246,824 is claimed for administrative cost, only \$65,090 is available pursuant to the cap. Therefore, \$181,734 of excess administrative cost claimed is not allowed. The following line items were reclassified as administrative cost: 1.9, 1.35, 1.36, 1.57, and 1.65.
- Item Nos. 1.10, 1.33, 1.37 and 1.66 – Implementation, delivery, and CIP costs totaling \$1.5 million. These items were considered administrative costs on ROPS I and II. In addition, no documents were provided to support the costs.

- Item No. 1.52 – A Morgan Hill Chamber of Commerce agreement totaling \$24,655. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The contract was signed by the Agency on June 28, 2011; therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 2.7 – Butterfield Boulevard South consulting contract in the amount of \$45,000 funded by bond proceeds. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The contract with MH Engineering Co. was signed on July 27, 2011; therefore, it is not an enforceable obligation.
- Item No. 2.17 – Butterfield Boulevard South design services in the amount of \$40,000 funded by bond proceeds. The contract with Mark Thomas & Company, Inc. is for the period between July 23, 2009 and December 22, 2011. The contract ended before ROPS III period and may not be extended. HSC section 34163 (b) and 34163 (c) prohibits a redevelopment from entering into a contract and amending a contract with any entity after June 27, 2011.
- Item No. 2.18 – Butterfield Boulevard South legal services in the amount of \$67,455 funded by bond proceeds. The original contract with Jarvis, Fay, and Doportto and Gibson covered services from March 1, 2011 through June 30, 2011. The first amendment to extend the contract term through June 30, 2012 was signed June 28, 2011. HSC section 34163(c) prohibits a redevelopment agency from amending or modifying existing agreements, obligations or commitments with any entity for any purpose after June 27, 2011.
- Item Nos. 2.36 and 2.37 – Underground Monterey project totaling \$253,000 funded with bond proceeds. The original contract ended June 30, 2010, before the ROPS III period. HSC sections 34163 (b) and 34163 (c) prohibits an Agency from entering into and amending a contract with any entity after June 27, 2011.
- Item Nos. P2.39 through 2.43 – Downtown and Monterey project totaling \$14.3 million funded by bond proceeds. There are not contracts in place to support these expenditures. HSC section 34191.4 prohibits the expenditure of excess bond proceeds until the Agency receives a “finding of completion” from Finance.
- Item Nos. A1.68 through A2.50 – Amendments to ROPS I in the amount of \$487,693 are identified as payments from the prior ROPS. Therefore, these items are not enforceable obligations.
- Item Nos. D1.8 through D1.66, D2.31 and D2.43 in the amount of \$635,184 were denied or reclassified as administrative costs on prior ROPS. No additional documents were provided to support the items as enforceable obligations for the ROPS III period.
- Item Nos. D2.11 through D2.30 and D2.33 – Bond proceeds in the amount of \$1,289,987 was denied on prior ROPS. HSC section 34191.4 prohibits the expenditure of excess bond proceeds until the Agency receives a “finding of completion” from Finance. It is our understanding that there are no contracts or agreements in place for these line items by June 27, 2011.
- Item Nos. P1.75 and P1.76 – General bond counsel costs totaling \$100,000. There are no signed contracts to support the amount. Therefore, the item is denied as an enforceable obligation.

- Item No. P2.52 – Property Acquisition costs in the amount of \$30,000 funded by bond proceeds. HSC section 34191.4 prohibits the expenditure of excess bond proceeds until the Agency receives a “finding of completion” from Finance. It is our understanding that there are no contracts or agreements in place for this line item signed by June 27, 2011; therefore this line item is not an enforceable obligation.

Except for items denied in whole or in part as enforceable obligations as noted above, Finance is approving the remaining items listed in your ROPS III. If you disagree with the determination with respect to any items on your ROPS III, 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 Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$328,608 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 3,571,657
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item No. 1.2 (Portion denied)	1,875,500
Items reclassified as administrative costs (1.9, 1.35, 1.36, 1.57, 1.65)	141,924
Item No. 1.10, 1.33, 1.37	74,727
Item No. 1.52	24,655
Item No. 1.66	89,746
Item No. A1.68 through A1.77	366,403
Item No. D1.10 through D1.66	529,764
Item No. D2.31	3,732
Item No. D2.43	101,688
Item No. P1.75 and P1.76	100,000
Total approved RPTTF for enforceable obligations	<u>\$ 263,518</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>65,090</u>
Total RPTTF approved:	\$ 328,608

Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 6,348,577
Total RPTTF for the period January through June 2013	263,518
Total RPTTF for fiscal year 2012-13:	\$ 6,612,095
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	250,000
Administrative allowance for the period of July through December 2012	184,910
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 65,090

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

Please refer to the ROPS III schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS III Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%20III%20Forms%20by%20Successor%20Agency/).

All items listed on a future ROPS are subject to a subsequent review. An item included on a future ROPS may be denied even if it was not questioned from the preceding ROPS.

The amount available from the RPTTF is the same as the 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.

Please direct inquiries to Robert Scott, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: . Mr. Ed Tewes, City Manager, City of Morgan Hill
Mr. Danny Wan, City Attorney, City of Morgan Hill
Mr. John Guthrie, Director of Finance Agency, County of Santa Clara
Ms. Irene Lui, Controller-Treasurer, County of Santa Clara