DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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December 18, 2012

Mr. John Montagh, Economic Development & Housing Manager
City of Concord
1950 Parkside Drive
Concord, CA 94519

Dear Mr. Montagh:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 20, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Concord Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 5, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 20, 2012. 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 7, 2012.

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. 8 – Plaza Towers Owner Participation Agreement (OPA) in the amount of $1.1 million funded by Redevelopment Property Tax Trust Fund (RPTTF). Finance continues to deny this item. As previously determined, Section 1.03 of the OPA states the Agency's promise to pay the Agency's Subsidy shall continue unless, "The Agency ceases for any reason to receive tax increment funds attributable to property taxes assessed on the Property and the Project." Tax increment is no longer payable to redevelopment agencies (RDAs); therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.

- Item Nos. 14 through 16 – Existing Affordable Obligations for Housing Loan administration and service in the amount of $3 million funded by RPTTF. Finance continues to deny the items. Finance previously denied the items because HSC section 34176 (a) (1) requires the housing entity to be responsible for the housing duties and obligations previously performed by the RDA. Finance maintains its position that the housing entity is responsible for its own operations and administrative costs. Obligations associated with the former RDA's previous monitoring obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations and housing assets...shall be transferred" to the new housing entity. This transfer of "duties

and obligations" necessarily includes the transfer of monitoring obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1-26/AB1484. Therefore, these items are not enforceable obligations and not eligible for RPTTF funding.

- Item 12 – Existing non housing obligations in the amount of $167,556. Finance continues to reclassify this item as an administrative cost. Finance previously reclassified this item as an administrative cost counting towards the administrative cost cap. The Agency contends the item was put on the ROPS to provide funding to meet the Agency's obligations under specific enforceable obligations. However, the item does not fall into any of the following categories that are specifically excluded from the administrative cap as defined by HSC section 34171 (b):

    - Any litigation expenses related to assets or obligations.
    - Settlements and judgments.
    - The costs of maintaining assets prior to disposition.
    - Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs.

  Therefore the requested $12,496 for the current period is reclassified as an administrative cost. Although this reclassification increased administrative costs to $142,126, the administrative cost allowance has not been exceeded.

- Item 19 – Property maintenance in the amount of $72,000. Finance no longer classifies this item as an administrative cost. Finance previously reclassified this item as an administrative cost counting towards the administrative cost cap. The Agency contends this is an estimate for costs of maintaining assets prior to disposition and provided documents for property tax and maintenance costs supporting the $7,200 estimate requested for the ROPS III period. HSC section 34171 (b) states the administrative cost allowances shall exclude the costs of maintaining assets prior to disposition. Therefore, the item is an enforceable obligation.

The Agency's maximum approved RPTTF distribution for the reporting period is: $6,292,380 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013		
Total RPTTF funding requested for obligations	$	6,358,575
Less: Six-month total for items denied or reclassified as administrative cost		
Item 8		148,569
Item 12*		12,496
Item 14		26,250
Item 15		3,522
Item 16		17,484
Total approved RPTTF for enforceable obligations	$	6,150,254
Plus: Allowable RPTTF distribution for administrative cost for ROPS III		142,126
Total RPTTF approved:	$	6,292,380

*Reclassified as administrative costs

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.

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.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2013. 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 questioned on this ROPS or a preceding ROPS.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Carole Wilson, Financial Operations Manager, City of Concord
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
California State Controller's Office