



December 18, 2012

Ms. Maureen Toms, Redevelopment Program Manager
Contra Costa County
30 Muir Road
Martinez, CA 94553-0095

Dear Ms. Toms:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 18, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the Contra Costa County Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 4, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 18, 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 9, 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 item being disputed.

- Item No. 17 – Re-Authorized Contract for Improvements in the amount of \$185,000 funded by the bond proceeds. Finance continues to deny the item at this time. Finance denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the county that created the redevelopment agency (RDA) and the former RDA are not enforceable. The Agency contends the item is an enforceable obligation because the Oversight Board approved the agreement reentering into the Project Agreement. While HSC section 34178 (a) and 34180 (h) authorizes successor agencies to reenter into agreements, any agreement reentered into cannot conflict with the requirements set forth in HSC 34171 (d), as ABx1 26 did not specifically carve out an exception to the definition of an enforceable obligation nor did HSC section 34178 (a) or 34180 (h) not withstand HSC section 34171 (d). Therefore, the Oversight Board had no legal basis to approve an action that directly conflicted with and violated the definition of an enforceable obligation. Even if Finance did not object to the specific Oversight Board actions authorizing the Agency to reenter into agreements, the statute as a whole prohibits such an action from being validated if it conflicts with the definition of an enforceable obligation. Additionally, Finance has clearly defined authority under HSC section 34177 and 34179 (h) to review any items on ROPS to determine whether or not successor agencies are responsible for the obligation listed on their ROPS. Even if an Oversight Board approved an action that created an enforceable obligation, Finance has the authority to review the enforceable obligation for compliance with HSC section 34171

(d) or for compliance with any other statutory requirements contained in Chapter 26, statutes of 2012 (AB 1484). At no time can an Oversight Board action eliminate Finance's authority to review an enforceable obligation as part of a ROPS review. Furthermore, the item is not eligible for bond funding at this time. However, successor agencies will be eligible to expend bonds issued prior to January 1, 2011, once a finding of completion is received per 34191.4 (c). Those obligations should be reported on a subsequent ROPS.

- Finance denied the items below as HSC section 34176 (a) (1) requires the housing entity to be responsible for the housing duties and obligations previously performed by the redevelopment agency. The housing authority is responsible for its own operations and administrative costs. Finance continues to deny the following items.
 - Items No. 72 and 73—LMIHF Monitoring in the total amount of \$2,141,448 funded by Redevelopment Property Tax Trust Fund (RPTTF).
 - Item No. 86—Contract for Legal Services for housing projects in the amount of \$60,000 funded by RPTTF.
 - Item No. 93 – Management of Housing Projects —Contract for Legal Services for housing projects in the amount of \$100,000 funded by RPTTF.

The Agency contends the items are enforceable obligations because they are associated with the implementation of preexisting state affordable housing requirements. The monitoring costs, legal costs and administrative costs are all costs incurred by the County, as Housing Successor, to continue to monitor and enforce all preexisting affordable housing obligations previously performed by the former RDA and imposed by state law. Obligations associated with the former RDA's previous statutory housing 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 statutory 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, the items are not enforceable obligations.

In addition, per Finance's ROPS letter dated October 18, 2012, the following items not disputed by the Agency continue to be denied:

- Administrative costs funded by RPTTF exceed the allowance by \$100,000. HSC section 34171 (b) limits administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. Three percent of the property tax allocated is \$345,331. The Administrative allowance for July through December was \$250,000 leaving \$95,331 available for January through June 2013. Therefore, \$100,000 of the claimed \$195,331 is not an enforceable obligation. The following items were considered administrative expenses:
 - Items 50 through 53 in the amount of \$195,331

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$6,207,780 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 6,169,879
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 72	1,866
Item 73	15,564
Item 86	30,000
Item 93	10,000
Total approved RPTTF for enforceable obligations	\$ 6,112,449
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	95,331
Total RPTTF approved:	\$ 6,207,780

Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 5,398,583
Total RPTTF for the period January through June 2013	6,112,449
Total RPTTF for fiscal year 2012-13:	\$ 11,511,032
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	345,331
Administrative allowance for the period of July through December 2012	250,000
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 95,331

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

Sincerely,



STEVE SZALAY
 Local Government Consultant

cc: On following page

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cc: Mr. Steven Goetz, Deputy Director, Conservation, Transportation and Redevelopment
Programs, Contra Costa County Department of Conservation and Development
Mr. Bob Campbell, Auditor-Controller, Contra Costa County Auditor-Controller's Office
California State Controller's Office