



December 18, 2012

Ms. Lori Trevino, Economic Development Manager  
City of El Cerrito  
10890 San Pablo Avenue  
El Cerrito, CA 94530

Dear Ms. Trevino:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 22, 2012. 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 III) to the California Department of Finance (Finance) on September 7, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 22, 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 8, 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. 11 – Eden Housing Loan Agreement in the amount of \$210,000. Finance continues to deny this item. Finance determined that according to the loan agreement, the Agency shall not be obligated to disburse any amounts in excess of \$100,000 until a Disposition and Development Agreement (DDA) is entered into by the Agency. It is our understanding that a DDA has not yet been entered into by the Agency and pursuant to HSC 34163 (b), an agency is prohibited from entering into any agreement after June 27, 2011. ABx1 26 requires agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies (RDAs) and provides successor agencies with limited authority only to the extent needed to implement the wind down of RDA affairs. Further, Section 2.08 subsection (f) of the loan agreement states that the agreement may be terminated if "State action limits or otherwise adversely affects redevelopment agency financing, redevelopment projects and/or redevelopment agencies." Therefore, the item is not an enforceable obligation.
- Item No. 12 – Cooperative Agreement in the amount of \$105.2 million. Finance continues to deny the item. Finance denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA are not enforceable. The El Cerrito Municipal Services Corporation (MSC) is considered part of the City per HSC section

34167.10 (a) (3). The Agency contends the MSC is a separate and distinct entity from the City. However, the City of El Cerritos' (City) Comprehensive Annual Financial Report for the Year Ended June 30, 2011, states that "the City, the El Cerrito Redevelopment Agency, the El Cerrito Public Financing Authority, and the El Cerrito Municipal Services Corporation which are legally separate but are component units of the City because they are controlled by the City, which is financially accountable for their activities." Per HSC section 34167.10 (c), it shall not be relevant that the entity is formed as a separate legal entity, nonprofit corporation, or otherwise, or is not subject to the constitution debt limitation otherwise applicable to a city, county, or city and county. Therefore, the MSC is considered part of the City. As noted above, HSC section 34171 (d) (2) applies; therefore the item is not an enforceable obligation eligible for RPTTF funding.

- Item No. 15 – Fiscal Year 2011-12 Administrative Allowance in the amount of \$250,000. Finance continues to deny the item at this time. Finance denied the item as HSC section 34177 (l) (3) states that the ROPS shall be forward looking to the next six months and this item represents a prior-period administrative cost; therefore it is not an enforceable obligation and not eligible for RPTTF funding. The Agency contends the item is an enforceable obligation because there was insufficient RPTTF for distribution and the City has been covering the costs. Per HSC section 34173 (h), the city, county, or city and county that authorized the creation of a redevelopment agency may loan or grant funds to a successor agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion. An enforceable obligation shall be deemed to be created for the repayment of those loans. However, the Agency does not have an Oversight Board approved loan agreement with the City; therefore, this item is currently not an enforceable obligation.

In addition, per Finance's ROPS letter dated October 22, 2012, although Item No. 13 continues to be reclassified as an administrative cost, the administrative cost allowance has not been exceeded. The Agency did not dispute this item during the Meet and Confer.

The Agency's maximum approved RPTTF distribution for the reporting period is: \$2,649,899 as summarized below:

<b>Approved RPTTF Distribution Amount For the period of January through June 2013</b>	
Total RPTTF funding requested for obligations	\$ 2,959,899
Less: Six-month total for items denied or reclassified as administrative cost	
Item No. 11	310,000
Item No. 12*	0
Item No. 13**	250,000
Item No. 15*	0
Total approved RPTTF for enforceable obligations	<u>\$ 2,399,899</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>250,000</u>
<b>Total RPTTF approved:</b>	<b>\$ 2,649,899</b>

\*No RPTTF funding requested for the reporting period

\*\*Reclassified as administrative cost

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: Ms. Hilde Myall, Housing Program Manager, City of El Cerrito  
Mr. Scott Hanin, City Manager, City of El Cerrito  
Ms. Mary Dodge, Administrative Services Director, City of El Cerrito  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County  
California State Controller's Office