



December 18, 2012

Ms. Cindy Trobitz-Thomas, Director of Economic Development and Housing
City of Eureka
531 K Street
Eureka, CA 95501

Dear Ms. Trobitz-Thomas:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 8, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Eureka Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 24, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 8, 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 19, 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. 10 – Reserve for July-December 2013 Obligations in the amount of \$1.2 million. Finance continues to deny the item. Finance originally denied the item because the statute does not currently recognize all anticipated obligations for the next ROPS period, thus creation of reserves for such items are not permissible. However, HSC section 34177 (b) allows reserves required for indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency (RDA) bonds. Through the meet and confer process, the Agency is permitted to adjust the amounts requested on specific line items. As such, the Agency submitted adjustments to Items 1 through 8 for which the reserves were requested. These amounts have been reviewed and approved as noted in the table below and are eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

Item #	Debt Obligation	Original Amount	Revised Amount
1	2003 EPFA Bonds	\$339,171.00	\$840,271.00
2	CA Infrastructure Bank Loan	\$22,362.00	\$80,341.00
3	2010 Series A Bonds	\$183,756.00	\$241,256.00
4	2010 Series B Bonds	\$118,640.00	\$141,140.00
5	Harbor EDA Bond	\$6,919.00	\$56,022.00
6	CA Boating & Waterways Loan	\$0.00	\$87,141.00
7	CA Boating & Waterways Loan	\$20,000.00	\$10,000.00
8	CA Boating & Waterways Loan	\$30,000.00	\$15,000.00
Total		\$720,848.00	\$1,471,171.00

- Item No. 12 – Public Improvement Agreement in the amount of \$5.1 million. Finance continues to deny the item. Finance denied the item as HSC section 34171 (d) (2) states that loans between the city that created the RDA and the former RDA are not enforceable obligations unless the loan agreements were entered into within the first two years of the creation of the RDA. The RDA was created in 1972 and the nine loans for this project were issued in 1984 and 1988. The Agency contends this is an enforceable obligation because the Oversight Board approved the Agency to re-enter a Public Improvement Agreement between the City of Eureka (City) and the RDA on June 11, 2012. According to the agreement, the Agency would reimburse the City for past advances received and commence future improvements. However, the loans were not issued within the first two years of creation. Therefore, the item is not an enforceable obligation.

While HSC section 34178 (a) and 34180 (h) authorizes successor agencies to enter or reenter into agreements, any agreement entered or 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 enter or 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.

- Item No. 14 – Housing Fund Deficit in the amount of \$61,950. Finance continues to deny the item at this time. Finance denied the item as the requirement to set aside 20 percent of RDA tax increment for low and moderate income housing purposes ended with the passing of the redevelopment dissolution legislation. The Agency contends the item is currently not an enforceable obligation, but should remain on the ROPS because HSC section 34171 (d) (1) (G) recognizes amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund which have been deferred. The item will be an enforceable obligation for payment in fiscal year 2013-14. However, the item is currently not an enforceable obligation.

- Item 24 – Housing Loan in the amount of \$95,000. Finance previously denied the item as HSC section 34176 (a) (1) states that the housing successor entity shall be responsible for the housing functions and obligations previously performed by the RDA. While we understand the Agency's position on the item, Finance continues to deny the item. The property was listed on the Housing Asset Transfer Form and was not contested by Finance; therefore, it is at the housing successor's discretion to retain the property. If the housing successor opts to pay off the first mortgage for the property, that payment becomes their responsibility. Therefore, the item is not an enforceable obligation.
- Item 23 and 25 through 30 – Various Housing items totaling \$327,606. Finance continues to deny the items. Finance denied the items as HSC section 34176 (a) (1) states that the housing successor entity shall be responsible for the housing functions and obligations previously performed by the RDA. The housing successor agency is responsible for the costs related to housing operations and administration. Therefore, the items are not enforceable obligations and not eligible for RPTTF funding.
- Items 40 through 47 – Various Housing items totaling \$317,849. Finance no longer objects to the items. Finance denied the items as HSC section 34176 (a) (1) states that the housing successor entity shall be responsible for the housing functions and obligations previously performed by the RDA. Although we continue to classify these items as housing successor obligations, these specific items are a carryover of unfunded obligations that were not denied during the ROPS II review. Therefore, it is Finance's position to allow these previously approved, but unfunded, obligations to be paid from RPTTF. Therefore, the items are eligible for RPTTF funding.
- Administrative costs claimed exceed the administrative allowance by \$217,092. HSC section 34171 (b) limits administrative expenses in any fiscal year 2012-13 to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. Agency claimed \$467,092 for administrative costs which exceeded the \$250,000 cap. Therefore, \$217,092 of excess administrative cost claimed is not allowed.

Finance had reclassified Items 16, 18, 19, 21, 22, and 31 through 39 as administrative costs. We also noted the Agency listed the administrative allowance as \$125,000 under RPTTF in error as the Agency's administrative allowance should be listed under Admin Allowance. Finance continues to reclassify the items as administrative costs as the Agency did not provide any additional documentation showing that the items do 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.

In addition, per Finance's ROPS letter dated October 8, 2012, the following items continue to be denied and were not contested by the Agency:

- Item No. 17 – Main Street Agreement in the amount of \$90,600. The funding agreement provided was only valid for a 12-month period during fiscal year 2006-07 and does not indicate a continuation of the obligation past that period. Therefore, this item is not eligible for RPTTF funding.

The Agency's maximum approved RPTTF distribution for the reporting period is \$1,926,967 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 3,748,129
Less: Six-month total for items denied or reclassified as administrative cost (*)	
Item 10	1,166,163
Item 16 *	125,000
Item 17	45,300
Item 18*	12,700
Item 19*	2,500
Item 21*	450
Item 22*	2,994
Item 23	5,000
Item 24	95,000
Item 25	44,786
Item 26	34,147
Item 27	18,650
Item 28	1,000
Item 29	550
Item 30	625
Item 31*	6,550
Item 32*	15,500
Item 33*	71,187
Item 34*	25,200
Item 35*	3,250
Item 36*	5,000
Item 37*	66,411
Item 38*	1,350
Item 39*	4,000
Item 40	100,000
Item 41	95,000
Item 42	66,902
Item 43	34,147
Item 44	18,525
Item 45	500
Item 46	650
Item 47	2,125
Total approved RPTTF for enforceable obligations	<u>\$ 1,676,967</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>250,000</u>
Total RPTTF approved:	\$ 1,926,967

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: Mr. Eric Neumann, Accountant II, City of Eureka
Mr. Joe Mellett, Auditor-Controller, County of Humboldt
California State Controller's Office