



REVISED

November 16, 2012

Mr. Steve Duran, City Manager
City of Hercules
111 Civic Drive
Hercules, CA 94547

Dear Mr. Duran:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177(m), the City of Hercules as Successor Agency to the Hercules Redevelopment Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 26, 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. 6 – AMBAC Settlement in the amount of \$6.5 million. The judgment provided to support this item is a Writ of Attachment (Writ) against City property. Per the judgment, this item is secured by property valued at \$6.5 million, but there is no obligation due. Therefore, this item is not eligible for Redevelopment Property Tax Trust Fund (RPTTF).
- Item Nos. 7 and 8—Owner Participation Agreements (OPA) totaling. The financing terms of the OPAs stated they shall expire upon the dissolution of the RDA. Since the RDA was dissolved as of February 1, 2012, the OPAs are no longer in effect, and these items are not eligible for RPTTF funding.
- Item No. 9—OPA with East Group in the amount of \$130,338. According to the OPA, the payments to East Group are legally required under HSC section 33670. Since HSC section 34189(a) has suspended HSC section 33670, the OPA is no longer valid. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 10—OPA for Hercules Senior Housing Project in the amount of \$1.4 million. The OPA states the agreement shall terminate on the date when the RDA no longer receives Housing Set-Aside Revenues. HSC section 34163 (c) (4) prohibits an agency from making any future deposits into the Low and Moderate Income Housing Fund. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 11 – Lewis Development Agreement in the amount of \$4 million. The Development Agreement is silent on Agency Assistance as well as placing the obligation to pay property

tax with Lewis-Hercules LLC, not the former RDA. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.

- Item No. 14 – City Loan in the amount of \$2.3 million. HSC Section 34171 (d) (2) states that the agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 15 – Employee Separation Agreement in the amount of \$56,250. The agreement identifies the City as the responsible party, and not the former RDA. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 16 – Cooperative Agreement in the amount of \$10.8 million. HSC Section 34171 (d) (2) states that the agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA and the former RDA are not enforceable. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 17 – BART Park-n-Ride Lot in the amount of \$108,240. The documentation provided states funding for the obligation listed is derived from revenue received from the parking program. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 19 – Various Homeowner Association fees in the amount of \$11,380. Grant deeds provided for 5 out of 8 properties indicate the City as the owner, and not the former RDA. Therefore, only \$7,340 is considered an enforceable obligation and not eligible for RPTTF funding.
- Item No. 23 – County Admin Fees in the amount of \$102,686. HSC section 34182(e) allows the county auditor-controller to deduct from the Redevelopment Property Tax Trust Fund for the administration costs prior to distributing property tax increment funds. Therefore, these costs are not allowed.

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/

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$9,605,544 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 18,680,240
Less: Six-month total for items denied	
Item 6	6,500,000
Item 7	17,917
Item 8	53,677
Item 9	32,191
Item 10	130,000
Item 11	170,000
Item 14	2,253,058
Item 15	56,250
Item 16*	0
Item 17	108,240
Item 19	18,720
Total approved RPTTF for enforceable obligations	<u>\$ 9,340,187</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III**	<u>265,357</u>
Total RPTTF approved:	\$ 9,605,544

*No RPTTF requested for the reporting period

**The figure reflects the denied Item No. 23 – County Admin Fees of \$102,686.

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.

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Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Nickie Mastay, Finance Director, City of Hercules
Mr. Bob Campbell, Auditor Controller, Contra Costa County