



December 18, 2012

Mr. William Avera, Development Services Director
City of Hollister
375 Fifth Street
Hollister, CA 95023

Dear Mr. Avera:

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 26, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Hollister Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 12, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 26, 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 30, 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. 8 – Rent Assistance Section 8 in the amount of \$840,000. Finance continues to deny the item. Finance denied the item as HSC section 34163 (b) prohibits a redevelopment agency (RDA) from entering into a contract with any entity after June 27, 2011. Since the contract with the Santa Cruz Housing Authority expired on December 1, 2008 and was not renewed, this line item is not an enforceable obligation and not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding. Furthermore, HSC section 34176 (a) (1) requires the housing entity to be responsible for the housing duties and obligations performed by the RDA. The housing entity is responsible for its own operations and administrative costs. The Agency contends the item is an enforceable obligation because the Agency's annual operating budget included a line item for Section 8 Housing with the Housing Authority of Santa Cruz County. However, the contract expired on December 1, 2008 and was not renewed. Furthermore, 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, this is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 9 – Housing Project Management in the amount of \$210,630. Finance continues to deny the item. HSC section 34176 (a) (1) requires the housing entity to be responsible for the housing duties and obligations previously performed by the RDA. Finance denied the item as the housing entity is responsible for its own operations and administrative costs. The Agency contends the item is an enforceable obligation because resale restriction agreements were recorded on multiple properties for periods of 20 to 55 years as required by Health and Safety Code section 33413 (c). However, 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, this is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 11 – Appeal West Gateway in the amount of 230,333 funded by bond proceeds. Finance continues to deny the item at this time. Finance denied the item as HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. Since no contract was in place for this item, it is not an enforceable obligation. The Agency contends the item is an enforceable obligation because the West Gateway streetscape improvement was listed as one of the three projects for the issuance of the Tax Allocation Bonds Series 2009. However, there was no contract was in place for the item. Therefore, 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.
- Various items denied during previous ROPS reviews are listed on ROPS III:
 - Item Nos. 22 through 26 – Administrative Costs in the amount of \$456,112. Finance continues to deny Items 22, 25, and 26 and no longer objects to Items 23 and 24; however, Items 23 and 24 are approved for \$0 RPTTF. These items were reclassified as administrative costs during previous ROPS review and disallowed because administrative costs claimed exceeded the administrative cost allowance. The Agency contends the items are enforceable obligations because Finance reclassified the costs associated with the payout of employee vacation and sick time accrual and PERS benefits and administrative costs of the Successor Agency. The Agency stated that the costs were paid for from Reserves. Items 23 and 24 are the costs associated with the one-time costs for payouts of sick time accrual, employee vacation, unemployment, and PERS post-employment benefits, which are enforceable obligations per HSC section 34171 (d) (1) (C); however, the costs have been paid from reserves and additional RPTTF is not required. The remaining 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.

Therefore, these items are still reclassified as administrative costs, denied as exceeding the administrative allowance, and not eligible for RPTTF funding.

- Item No. 27 – January Graffiti Removal in the amount of \$9,365. Finance no longer objects to the item; however, it is approved for \$0 RPTTF. Finance denied the item as HSC section 34171 (d) (2) states that agreements or contracts between the city that created the RDA and the RDA are not enforceable obligations; therefore, this is being denied and is not eligible for RPTTF funding. The Agency contends the item is an enforceable obligation because graffiti removal was an ongoing revolving program of the former RDA to eliminate blight. The costs associated with the item were to pay for equipment, paint, and staff to administer the program in January 2012. Since the costs have already been paid, additional RPTTF is not required.
- Administrative costs claimed for RPTTF exceed the allowance by \$72,872. HSC section 34171 (b) limits the 2012-13 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. Additionally, Item Nos. 17 and 18 were reclassified as administrative costs. The Agency requested further clarification on how the amounts for the administrative costs for both periods were determined. For the July through December 2012 period, the amount includes the administrative allowance of \$145,572 and reclassified Items 10 through 13 and 15 totaling \$37,300; Items 4 through 7 and 14 should not have been reclassified as administrative costs. For the January through June 2013 period, the amount includes the administrative allowance of \$125,000 and reclassified Item 18 totaling \$12,500; Item 17 should not have been reclassified. Since \$182,872 was approved for the July through December 2012, only \$67,128 remains for the January through June 2013 period. Therefore, \$70,372 of the requested \$137,500 is disallowed.

	Initial Amount	Final Amount
Amount administrative costs for fiscal year 2012-13	\$250,000	\$250,000
Administrative costs claimed for July through December 2012	228,344	182,872
Administrative costs claimed for January through June 2013	147,100	137,500
Overage	\$125,444	\$70,372

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$1,306,451 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 1,864,615
Less: Six-month total for items denied or reclassified as administrative cost	
Item 8	42,000
Item 9	105,315
Item 18*	12,500
Item 22	174,835
Item 23	174,012
Item 24	100,800
Item 25	600
Item 26	5,865
Item 27	9,365
Total approved RPTTF for enforceable obligations	\$ 1,239,323
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	67,128
Total RPTTF approved:	\$ 1,306,451
Administrative Cost Calculation	

*Reclassified as administrative cost

Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 2,371,288
Total RPTTF for the period January through June 2013	1,229,723
Total RPTTF for fiscal year 2012-13:	\$ 3,601,011
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	250,000
Administrative allowance for the period of July through December 2012	182,872
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 67,128

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.

Mr. William Avera
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Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Szalay', with a long, sweeping underline that extends to the left.

STEVE SZALAY
Local Government Consultant

cc: Ms. Mary Paxton, Program Manager, City of Hollister
Mr. Joe Paul Gonzalez, Auditor-Controller, San Benito County Auditor Controller
California State Controller's Office