



December 18, 2012

Ms. Cindy Mosser, Finance Manager
City of Walnut Creek
1666 N. Main Street
Walnut Creek, CA 94596

Dear Ms. Mosser:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 14, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Walnut Creek Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 30, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 14, 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 16, 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 Nos. 7 and 8 – Public Improvement projects in the amount of \$1.9 million are loans from the City. Finance continues to deny this 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 Agency contends the items are enforceable obligations because it is the subject of an existing Disposition and Development Agreement executed on August 5, 2008 and amended on February 16, 2010. However, the items are to reimburse the City for funds expended in accordance with the Public Improvements and Affordable Housing Reimbursement Agreement between the City and the former RDA. Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is currently not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 10 – Contract with Best Best and Krieger LLP (BBK) for Legal Services in the amount of \$2,000. Finance no longer objects to the item; however, Finance reclassifies the item as an administrative cost. Finance denied the item as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. Because the contract with the BBK was signed on March 27, 2012, after June 27, 2011,

this line item is not an enforceable obligation and not eligible for RPTTF funding. The Agency contends the item is an enforceable obligation because this March 2012 agreement was executed with the new successor agency because of the dissolution of the RDA. The Agency may enter into a contract for legal services. HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. However, Item 10 relates to general legal representation and not specifically to bringing or contesting a legal action in court; therefore, it is considered an administrative cost.

- Items 11, 12, and 13 were reclassified as administrative costs. Finance continues to reclassify the items as administrative costs. The Agency contends the items are enforceable obligations because the costs are specifically related to the work required to meet debt covenants for the bond indentures. However, 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.

Although Items 10 (discussed in the previous bullet), 11, 12, and 13 were reclassified, the Agency has not exceeded its administrative cost allowance.

The Agency's maximum approved RPTTF distribution for the reporting period is \$224,152 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 1,999,132
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item No. 7	400,000
Item No. 8	1,500,000
Item No. 10*	2,000
Item No. 11*	1,702
Items No. 12*	4,286
Item No. 13*	1,174
Total approved RPTTF for enforceable obligations	\$ 89,970
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	134,182
Total RPTTF approved:	\$ 224,152

*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: Mr. Bob Campbell, Auditor-Controller, County of Contra Costa
Mr. Jay Wilverding, Chief Accountant, County of Contra Costa
California State Controller's Office