



May 17, 2013

Ms. Maureen Toms, Redevelopment Program Manager  
Contra Costa County Successor Agency  
30 Muir Road  
Martinez, CA 94553-0095

Dear Ms. Toms:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS 13-14A) letter dated May 3, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the Contra Costa County Successor Agency (Agency) submitted a ROPS 13-14A to Finance on March 20, 2013 for the period of July through December 2013. Finance issued a ROPS determination letter on May 3, 2013. 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 May 14, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed. Specifically, the following adjustments were made:

In regards to items that may have been reentered into, the Agency contends those items are enforceable obligations because the Agency was authorized to reenter into the agreements by resolution of the duly appointed Oversight Board. While HSC 34178 (a) and 34180(h) authorizes successor agencies to reenter into agreements, any agreement 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) notwithstanding 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 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, statute of 2012 (AB1484). At no time can an Oversight Board action eliminate Finance's authority to review an enforceable obligation as part of a ROPS review.

Finance's determination is effective for this time period only and should not be relied upon for future periods. All items listed on a future ROPS are subject to subsequent review and may be denied even if it was or was not questioned on this ROPS or a preceding ROPS.

- Reentered agreements between the Agency and the County continue to be denied, as further discussed below:
  - Items Nos. 20, 24, 101, and 102 totaling \$988,352 (\$673,352 + \$40,000 in bond funds and \$175,000 + \$100,000 in Redevelopment Property Tax Trust Funds (RPTTF), respectively) Finance continues to deny these items. The Agency contends these items are enforceable because the Agency modified the existing cooperative agreement and reentered into new cooperative agreements with Contra Costa County (County) on December 4, 2012. HSC 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after July 27, 2011 and HSC section 34163 (c) prohibits a redevelopment agency from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011. Additionally, pursuant HSC 34177.3 (a) a Successor Agency shall lack the authority to, and shall not, create new enforceable obligations.
  - Item Nos. 21, 23, and 95 – Richmond Infrastructure Improvements totaling \$2,177,830 (\$1,176,121 + \$981,709 + \$20,000) in bond proceeds. Finance continues to deny the items. The Agency contends that these items are enforceable because the Agency modified the existing cooperative agreement as well as reentered into new cooperative agreements with the County on May 2, 2012. HSC 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after July 27, 2011 and HSC section 34163 (c) prohibits a redevelopment agency from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011; therefore, these are not enforceable obligations. Additionally, pursuant HSC 34177.3 (a) a Successor Agency shall lack the authority to, and shall not, create new enforceable obligations.
  - Item No. 14 – CCC Infrastructure Improvements totaling \$1,130,661 in bond proceeds. Finance continues to deny these items. The Agency contends these items are enforceable because the Agency modified the existing cooperative agreement and reentered into new cooperative agreements with Contra Costa County (County) on May 2, 2012. HSC 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after July 27, 2011 and HSC section 34163 (c) prohibits a redevelopment agency from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011. Additionally, pursuant HSC 34177.3 (a) a Successor Agency shall lack the authority to, and shall not, create new enforceable obligations.
  - In addition, these items are agreements between the former redevelopment agency (RDA) and the County. Pursuant to HSC section 34171 (d) (2), agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable. Therefore, these items are not enforceable obligations and are not eligible for funding on this ROPS. We note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance

will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued.

- Item No. 32 - Harris and Associates contract totaling \$42,480 in RPTTF for the Inspection services for Transit Village Project. Our review indicates that this contract terminated on December 31, 2012 and was extended on January 2, 2013. HSC 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after July 27, 2011 and HSC section 34163 (c) prohibits a redevelopment agency from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011. Therefore this item is not an enforceable obligation and we continue to deny this item.
- Item No. 63, 82 through 84, and 91 – Various Hookston Station Remediation costs totaling \$1,561,000 to funded with RPTTF and reserve funds. Finance continues to deny these items. The Agency contends that Hookston Station Settlement Agreement, page 8 section 4, obligates the Agency to pay for a portion of the remediation costs. Our review indicates that the settlement agreement states, “Southern Pacific and the Hookston Owners shall bear the Remediation Costs equally, that is 50 percent by Southern Pacific and 50 percent by the Hookston Owners”. The Hookston Owners are identified as the Hookston Group and the County. The former RDA is not specifically identified in this group as being liable for the costs. Therefore, the Agency is not a party to the obligation for remediation costs and these items are not enforceable obligations.
- Item Nos. 78 and 88 – Avalon Bay project totaling \$670,000 (\$650,000 + \$20,000) in RPTTF. As further discussed below, Finance no longer denies these items.
  - Our review of the documents provided related to item 78 indicates that the Agency Assistance Agreement, signed on December 19, 2005 with the Pleasant Hill Transit Village Associates, is an enforceable obligation. This agreement provides subsidies for affordable housing and funding for the creation of other structures on the San Francisco Bay Area Regional Transit (BART) station property. This is considered an enforceable obligation and approved for funding during the ROPS 13-14A period.
  - Our review of the documents provided by the agency during the Meet and Confer process indicates that item 88 relates to project related legal expenses for the Pleasant Hill Transit Village project. HSC section 34171 (b) allows litigation expenses to be excluded from the administrative cost allowances. Therefore, this obligation is approved for funding during the ROPS 13-14A period.
- Item No. 10 in the amount of \$565,733 in bond proceeds, and Item Nos. 45 and 46, in the amount of \$1,046,774 (\$362,824 + \$683,950) in RPTTF for the Placemaking Transit Village.
  - The Agency provided additional documentation during the Meet and Confer process and our review of these documents indicate that item 10 is a design and construction contract between the Agency, the Pleasant Hill Transit Village Associates, and BART that was signed on December 19, 2005. We conclude that this item is an enforceable obligation and eligible for RPTTF funding this period.

- The Agency provided additional documentation during the Meet and Confer process and our review of these documents indicate that Items 45, and 46, are project related expenses related to the construction of the Placemaking Transit Village. HSC section 34171 (b) allows project related expenses to be excluded from the administrative cost allowances. Therefore these obligations are enforceable obligations and eligible for RPTTF funding this period. .
- Item Nos. 4 and 5 in the amounts of \$366,050 (245,441 + \$120,609) for the Low and Moderate Income Housing Fund (LMIHF) obligations. The Agency provided additional documentation during the Meet and Confer process; however, the Agency failed to provide sufficient documentation to identify the Agency's need to request additional funding. The Agency was approved to retain \$366,050 in the LMIHF Due Diligence Review to satisfy these obligations. Therefore, these line items are not eligible for additional Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item Nos. 34 and 100 in the amount of \$772,475 (\$662,475 + \$110,000) in RPTTF and Item 64 in the amount of \$101,721 in reserve balances for the Tri-City settlement and remediation. The Agency provided documentation during the Meet and Confer process and our review indicates that these are enforceable obligations pursuant to the Tri-Cities Concrete settlement agreement and the related remediation. Therefore these items are enforceable and approved for funding during the ROPS 13-14A period.
- The Agency did not provide sufficient documentation during the Meet and Confer process to demonstrate that the following items are enforceable obligations:
  - Item Nos. 22– Bond Project Management costs totaling \$20,000; payable from Bond Proceeds. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that contracts for these line items were awarded after June 27, 2011. Pursuant to HSC section 34191.4 (c), your request to use bond funds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance.
  - Item No. 38 – Heritage Point Land costs in the amount of \$587,854; payable from Reserve Funds. Documentation provided includes the Contra Costa County Board of Director's order and resolution and does not serve as valid agreements for this item. Pursuant to HSC section 34179.6 (f), the unencumbered Other Funds and Account balances, as determined in the Due Diligence Review by Finance, shall be remitted to the affected taxing entities. Therefore, this line item is not eligible for reserve funding on this ROPS. .
  - Administrative costs funded by RPTTF exceed the allowance by \$321,488. HSC section 34171 (b) limits administrative expenses to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. Three percent of the property tax allocated is \$130,051. Therefore, \$321,488 of the claimed \$571,488 is not an enforceable obligation. The following items were considered administrative expenses and therefore have been reclassified:
    - Items No. 25 – Legal Services contract in the amount of \$151,762
    - Items No. 26 – Financial Analysis contract in the amount of \$30,445
    - Items No. 79 – Accounting contract in the amount of \$178,000

In addition, per Finance's ROPS letter dated May 3, 2013, the following items not contested by the Agency during the Meet and Confer continue to be denied:

- Item Nos. 19 – Relocation/Maintenance contract in the amount of \$300,000; payable from Bond Proceeds. Pursuant to HSC section 34191.4 (c), your request to use Bond Proceeds for this obligation may be allowable once the Agency receives a Finding of Completion.
- Item Nos. 30 - Placemaking Transit Village costs totaling \$8,500. The documentation provided for these line items does not support the amounts claimed. Therefore, these line items are not eligible for RPTTF funding.
- Item No. 37 – Business relocation contract in the amount of \$22,236. This contract is between Contra Costa County and Associated Right of Way Services, Inc. The former RDA is neither a party to the contract nor responsible for payment of the contract. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 41 – 189/199 Parker Property Maintenance costs in the amount of \$40,000; payable from Reserve Funds. The Agency was approved to spend reserve funds on previous ROPS. Therefore, this line item is not eligible for additional Reserve Fund funding on this ROPS.
- Item No. 49 – Legal Fees in the amount of \$59,750; payable from Reserve Funds. This item was approved for \$30,000 Reserve Funds on the January through June 2013 ROPS (ROPS III). While not eligible for additional funding on this ROPS, the Agency has until June 2013 to spend previously approved funding. Pursuant to HSC section 34186 (a), the difference between the approved obligation and actual payments associated with ROPS III shall be reported in the subsequent ROPS.
- Item No. 65 – Fiscal Agreement in the amount of \$500,000. According to the agreement, entered into on May 8, 1990, within four years of the date of the adoption of the plan, the Agency will negotiate a subsequent agreement regarding payments. It is our understanding the subsequent agreement for this line item was executed after June 27, 2011. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 81 – Property maintenance costs in the amount of \$45,000; payable from Reserve Funds. The Agency was approved to spend reserve funds on previous ROPS. Therefore, this line item is not eligible for additional Reserve Fund funding on this ROPS.
- Item No. 85 – Technical Assistance costs in the amount of \$65,000; payable from Reserve Funds. The Agency was approved for a total of \$65,000 RPTTF funding on ROPS III. The Agency has until June 2013 to spend previously approved funding. Pursuant to HSC section 34186 (a), the difference between the approved obligation and actual payments associated with ROPS III shall be reported in subsequent ROPS. Therefore, these line items are not eligible for additional funding.

- Item Nos. 96 through 99 – Various Housing Administrative costs totaling \$2,317,267. HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. Since the Contra Costa County assumed the housing functions, the administrative costs associated with these functions are the responsibility of the housing successor.

Additionally, this line item was denied as an inclusion to the ROPS for the period January through June 2013; later upheld through the Meet and Confer process, as outlined in the letter dated December 18, 2012. Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS 13-14A. Obligations deemed not to be enforceable shall be removed from your ROPS.

The Agency's maximum approved RPTTF distribution for the reporting period is \$5,996,011 as summarized below:

<b>Approved RPTTF Distribution Amount For the period of July through December 2013</b>	
Total RPTTF funding requested for obligations	\$ 8,261,673
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 4	175,000
Item 5	120,609
Item 25*	151,762
Item 26*	4,726
Item 30	8,500
Item 32	20,000
Item 37	21,920
Item 63	75,000
Item 65	500,000
Item 79*	165,000
Item 84	25,000
Item 91	20,000
Item 96	3,732
Item 97	31,128
Item 98	30,000
Item 99	10,000
Item 101	100,000
Item 102	175,000
Total approved RPTTF for enforceable obligations	\$ 6,624,296
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	250,000
Minus: ROPS II prior period adjustment	(878,285)
<b>Total RPTTF approved for distribution:</b>	<b>\$ 5,996,011</b>

\*Reclassified as administrative cost

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 period. The amount of RPTTF approved in the above table includes the prior period adjustment that was self-reported by the Agency. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the above table includes only the prior period adjustment that was self-reported by the Agency.

Please refer to the ROPS 13-14A schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14A Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS_13-14A_Forms_by_Successor_Agency/)

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 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 denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of 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.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Derk Symons, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Steven Goetz, Deputy Director, Conservation, Transportation and Redevelopment Programs, Contra Costa County Department of Conservation and Development  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County  
California State Controller's Office