



April 16, 2014

Mr. Scott Hanin, City Manager
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Mr. Hanin:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of El Cerrito Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to the California Department of Finance (Finance) on March 3, 2014 for the period of July through December 2014. Finance has completed its review of your ROPS 14-15A, 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 for the reasons specified:

- Item Nos. 1, 2, 3 and 5 – Debt Service payments totaling \$1,063,616 for payments due July through December 2015. The Agency has requested funds for debt service payments due January 1, 2015 and July 1, 2015. Of the amount requested, only \$351,016 is due July 1, 2015. HSC section 34171 (d) (1) (A) allows successor agencies to hold a reserve for debt service payments when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the *calendar year*. Therefore, of the \$1,063,616 requested, \$712,600 (\$1,063,616 - \$351,016) to fund payments due for the first half of the calendar year is not allowed.
- Item No. 21 – Litigation Costs/Cash Flow Loan Agreement in the amount of \$90,000. Finance reminds the Agency that any loan agreements pursuant to HSC section 34173 (h) must be approved by the Oversight Board and presented to Finance for review and approval before the loan can be considered an enforceable obligation. Additionally, it is our understanding the estimated expenditures for litigation costs for the July through December 2014 period is only \$30,000. Therefore, with the Agency's consent, the excess \$60,000 (\$90,000 - \$30,000) is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding on this ROPS.
- Item No. 22 – Eden Housing Loan Agreement (Agreement) in the amount of \$250,000. Finance continues to deny this item. The Agreement was previously denied and upheld during the previous ROPS period Meet and Confer determination letters dated December 18, 2012 and December 17, 2013. Pursuant to HSC 34163 (b), an agency is prohibited from entering into any agreement after June 27, 2011. ABx1 26 requires agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies (RDAs) and

provides successor agencies with limited authority only to the extent needed to implement the wind down of RDA affairs. Therefore, the item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 23 – Cooperation Agreement (Agreement) with El Cerrito Municipal Services Corporation (MSC) in the amount of \$3,287,000. Finance continues to deny this item; the Agreement was previously denied and upheld during the previous ROPS period Meet and Confer determination letters dated December 18, 2012, May 17, 2013, and December 17, 2013. Finance denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable.

MSC is considered part of the City per HSC section 34167.10 (a) (3). The Agency contends the MSC is a separate and distinct entity from the City. However, the City of El Cerrito's (City) Comprehensive Annual Financial Report for the Year Ended June 30, 2011, states that "the City, the El Cerrito Redevelopment Agency, the El Cerrito Public Financing Authority, and the El Cerrito Municipal Services Corporation which are legally separate but are component units of the City because they are controlled by the City, which is financially accountable for their activities." Per HSC section 34167.10 (c), it shall not be relevant that the entity is formed as a separate legal entity, nonprofit corporation, or otherwise, or is not subject to the constitution debt limitation otherwise applicable to a city, county, or city and county. Therefore, the MSC is considered part of the City. As noted above, HSC section 34171 (d) (2) applies; therefore this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 24 - San Pablo Avenue Streetscapes in the amount of \$431,599 is not an obligation of the Agency. Based on the City resolutions provided by the Agency, the agreements subject to the request were entered into by the City and various third parties; the former RDA is not a party to the agreements. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding on this ROPS.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2013 period. The amount of RPTTF approved in the table below includes the prior period adjustment self-reported by the Agency. HSC section 34186 (a) also specifies 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 table below only includes the prior period adjustment self-reported by the Agency.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 14-15A. If you disagree with the determination with respect to any items on your ROPS 14-15A, 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 RPTTF distribution for the reporting period is \$530,819 as summarized below:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	2,160,018
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 2,285,018
Total RPTTF requested for non-administrative obligations	2,160,018
<u>Denied Items</u>	
Item No. 1	(225,000)
Item No. 2	(107,500)
Item No. 3	(342,500)
Item No. 5	(37,600)
Item No. 21	(60,000)
Item No. 22	(250,000)
Item No. 23	(300,000)
Item No. 24	(431,599)
	(1,754,199)
Total RPTTF authorized for non-administrative obligations	\$ 405,819
Total RPTTF authorized for obligations	\$ 530,819
ROPS 13-14A prior period adjustment	0
Total RPTTF approved for distribution	\$ 530,819

Please refer to the ROPS 14-15A schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS>

Absent a Meet and Confer, this is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2014. This determination only applies to items where funding was requested for the six-month period. 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 section 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 HSC section 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.

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Please direct inquiries to Nichelle Thomas, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Lori Trevino, Finance Manager/Special Projects, City of El Cerrito
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
California State Controller's Office