



May 17, 2012

Ms. Nickie Mastay, Director of Finance
City of Hercules
111 Civic Drive
Hercules, CA 94547

Dear Ms. Mastay:

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the City of Hercules Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS) to the California Department of Finance (Finance) on May 4, 2012 for the period July through December 2012. Finance staff contacted you for clarification of items listed in the ROPS.

HSC section 34171 (d) lists enforceable obligation (EO) characteristics. Based on a sample of line items reviewed and application of the law, the following do not qualify as EOs:

- Page 1, item 5 – Catellus/Hercules LLC settlement agreement in the amount of \$53.3 million. The judgment is not an EO because there no longer are “taxes which are allocated to the Agency pursuant to Health and Safety Code section 33670.” These taxes were the basis of the percentage set-asides required in the judgment to fund low and moderate income housing. Because there are no longer such taxes allocated to the Agency, there are no longer required set-asides to enforce.
- Page 1, item 14 – City loan for construction costs for Sycamore North in the amount of \$2.2 million. 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 unless the loan agreements were entered into within the first two years of the date of the creation of the RDA. Finance reviewed the additional document provided in support of this item; however, Finance's position remains the same. The loan was issued with city funds and is therefore not an EO.

Additionally, we reviewed your May 7, 2012 response to Finance's review of the January to June 2012 ROPS. After review of the additional document provided supporting the AMBAC settlement totaling \$3.5 million, we are no longer questioning that item (page 1, item 6 of the January to June 2012 ROPS).

If you believe we have reached this conclusion in error, please provide further evidence that the items questioned above meet the definition of an EO and submit to the following email address:

Redevelopment_Administration@dof.ca.gov

Finance may continue to review items on the ROPS in addition to those mentioned above and identify additional issues. We will provide separate notice if we are requesting further

Ms. Nickie Mastay
May 17, 2012
Page 2

modifications to the ROPS. It is our intent to provide an approval notice with regard to each ROPS prior to the June 1 property tax distribution date.

Please direct any inquiries to Evelyn Suess, Supervisor, or Mindy Patterson, Lead Analyst, at (916) 322-2985.

Sincerely,

A handwritten signature in black ink that reads "Mark Hill". The signature is written in a cursive style with a large, stylized "H".

MARK HILL
Program Budget Manager

cc: Mr. Steve Duran, City Manager, City of Hercules
Mr. Bob Campbell, Auditor-Controller, Contra Costa County Auditor Controller
Mr. Jay Wilverding, Chief Accountant, Contra Costa County Auditor Controller