



May 16, 2014

Mr. Eric Angstadt, Planning Director  
City of Berkeley  
2118 Milvia Street, 3rd floor  
Berkeley, CA 94704

Dear Mr. Angstadt:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 14, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Berkeley Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to Finance on February 28, 2014, for the period of July through December 2014. Finance issued a ROPS determination letter on April 14, 2014. 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 1, 2014.

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. 1 – 2005 Tax Allocation Bond totaling \$473,494. Finance no longer denies this item. Finance previously determined debt service for ROPS 14-15A was only \$21,494 and that the Agency requested an additional \$452,500 for payments due January through June 2015; therefore, only the amount due during 14-15A, or \$21,494, was approved. Additional review during the meet and confer indicates that the Agency may not receive sufficient from the Redevelopment Property Tax Trust Fund (RPTTF) during the January through June 2015 (ROPS 14-15B) period to make the final debt service payment of \$926,494 due June 1, 2015. Distribution reports provided by the county auditor-controller (CAC) show that the Agency had less than \$920,000 available each period to fund enforceable obligations for the past three ROPS periods. 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. Therefore, because the Agency is likely to have a shortage of RPTTF, this item is approved.

Finance notes that pursuant to HSC section 34183 (a) (2) (A), debt service payments have first priority for payment from distributed RPTTF funding. As such, because a shortage is anticipated during ROPS 14-15B, the additional \$452,500 requested for the ROPS 14-15B debt service payment should be deposited upon receipt into the Special Fund per the indenture and prior to making any payments on other approved ROPS items. Any requests to fund this amount again in the ROPS 14-15B period will be

denied unless insufficient RPTTF is received to satisfy both the debt service payments due during the ROPS 14-15A period and the additional amounts requested for ROPS 14-15B.

- Item No. 2– Savo Island Loan Payable in the amount of \$759,600. Finance continues to deny this item as no additional information or documentation was provided during the meet and confer. 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. Therefore, Finance continues to deny this item as an enforceable obligation and it is not eligible for RPTTF funding.
- Item No. 3 – \$1 Million Bond - City Loan in the amount of \$547,553. Finance continues to deny this item as no additional information or documentation was provided during the meet and confer. The bond indenture provided by the Agency was between the former RDA and the City identifying the City as the sole bondholder. HSC section 34171 (d) (2) states that enforceable obligation does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 30 – Purchase Order in the amount of \$5,000. Finance no longer denies this item. Finance denied this item on the January through June 2014 ROPS because the Agency did not provide documentation supporting the need for landscaping services. However, pursuant to HSC section 34171 (b), the Agency may claim costs associated with maintaining assets prior to disposition outside of the administrative cap. Therefore, Finance has determined this item is an enforceable obligation.

We note that the funds requested are approved for maintenance, not improvements. The Agency may be required to support actual expenditures as required maintenance during reconciliation of the ROPS 14-15A expenditures as part of the July through December 2015 (ROPS 15-16A) ROPS review.

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. HSC section 34186 (a) also specifies prior period adjustments self-reported by successor agencies are subject to audit by the CAC and the State Controller. The amount of RPTTF approved in the table below includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

Except for the item denied in whole or in part as enforceable obligation, Finance is not objecting to the remaining items listed on your ROPS 14-15A. The Agency's maximum approved RPTTF distribution for the reporting period is \$573,767 as summarized in the following table:

<b>Approved RPTTF Distribution</b>	
<b>For the period of July through December 2014</b>	
Total RPTTF requested for non-administrative obligations	825,371
Total RPTTF requested for administrative obligations	125,000
<b>Total RPTTF requested for obligations</b>	<b>\$ 950,371</b>
<b>Denied Item(s)</b>	
Item No. 2	(40,600)
Item No. 3	(273,777)
	(314,377)
<b>Total RPTTF authorized for non-administrative obligations</b>	<b>\$ 510,994</b>
<b>Total RPTTF authorized for administrative obligations</b>	<b>\$ 125,000</b>
<b>Total RPTTF authorized for obligations</b>	<b>\$ 635,994</b>
ROPS 13-14A prior period adjustment	(62,227)
<b>Total RPTTF approved for distribution</b>	<b>\$ 573,767</b>

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

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

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 Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Assistant Program Budget Manager

cc: Ms. Danita Hardaway, Associate Management Analyst, City of Berkeley  
Ms. Carol S Orth, Tax Analysis, Division Chief, Alameda County  
California State Controller's Office