

March 28, 2014

Ms. Debra Auker, Administrative Services Director
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Dear Ms. Auker:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Emeryville Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to the California Department of Finance (Finance) on February 14, 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 No. 99 – Debt Service Reserve Payment in the amount of \$3,476,506. HSC section 34171 (d) (1) (A) allows for reserves when required by the bond indenture or when the next property tax allocation will be insufficient to pay for all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year. Our review noted that the debt service reserves are not required pursuant to the official bonds statements and the Agency will receive sufficient Redevelopment Property Tax Trust Fund (RPTTF) to satisfy all of their debt service obligations during the ROPS 14-15A period. The Agency may request debt service reserve during the first half of the next calendar year (ROPS 14-15B) for the second half of the calendar year. Therefore, for the ROPS 14-15A period, this item is not eligible for RPTTF funding.
- Item No. 113 – Unfunded Debt Service Reserve in the amount of \$774,086. During July through December 2013 (ROPS 13-14A) period, Finance approved \$14,476,434 of RPTTF funding for Agency's enforceable obligations, but the actual distribution by the County Auditor-Controller totaled \$13,484,095. Therefore, the Agency claims that Item No. 99 – Debt Service Reserves was not fully funded due to the shortage. Finance approved \$3,657,300 to fund Item 99; however, the Agency claimed the item only received \$2,883,214, \$774,086 less than the authorized amount. During January through June 2014 (ROPS 13-14B) period, the Agency used Reserve Funds to pay the debt service amount. Therefore, the item is not considered an unfunded obligation and not eligible for RPTTF funding.

Furthermore, the Agency reported Item No. 109 – Pre-2011 Excess Bond Proceeds Funding Agreement (Agreement) in the amount \$3,829,600. On February 14, 2014, the Agency and the City of Emeryville (City) executed the Agreement to transfer pre-2011 bond proceeds to the City. The Agency received a Finding of Completion on August 29, 2013 and is allowed to expend pre-2011 bond proceeds in a manner consistent with the bond covenant. However, it is our understanding that the Agreement has not been approved by the oversight board. The transfer of bond proceeds may take place once the Agreement is approved by the oversight board and Finance.

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 county auditor-controller (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 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 \$3,155,528 as summarized below:

Approved RPTTF Distribution For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	7,190,412
Total RPTTF requested for administrative obligations	215,712
Total RPTTF requested for obligations	\$ 7,406,124
Total RPTTF requested for non-administrative obligations	7,190,412
<u>Denied Items</u>	
Item No. 99	(3,476,506)
Item No. 113	(774,086)
	(4,250,592)
Total RPTTF authorized for non-administrative obligations	\$ 2,939,820
Total RPTTF authorized for administrative obligations	\$ 215,712
Total RPTTF authorized for obligations	\$ 3,155,532
ROPS 13-14A prior period adjustment	(4)
Total RPTTF approved for distribution	\$ 3,155,528

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.

Please direct inquiries to Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Michael Biddle, City Attorney, City of Emeryville
Ms. Carol S Orth, Tax Analysis, Division Chief, Alameda County
California State Controller's Office