

December 17, 2013

Ms. Kelly McAdoo, Assistant City Manager
City of Hayward
777 B Street
Hayward, CA 94541

Dear Ms. McAdoo:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 7, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Hayward Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 30, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 7, 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 December 3, 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 the specific items being disputed.

In addition, per Finance's letter dated November 7, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item Nos. 55 – South Hayward BART Project Management Expenses totaling \$230,000 and Item No. 56 – Legal fees related to the South Hayward BART Project in the amount of \$427,795. Finance continues to reclassify these items as administrative costs. During the Meet and Confer, the Agency contended that the project related costs are enforceable obligations under HSC section 34177.3. Finance notes that even though contracts may be an enforceable obligation, these items do not fall into any of the following categories that are specifically excluded from the administrative cap as defined by HSC section 34171 (b):
 - Any litigation expenses related to assets or obligations.
 - Settlements and judgments.
 - The costs of maintaining assets prior to disposition.
 - Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs

Finance notes that the project management services as well as legal costs are to be provided by a contactor or consultant who is not an employee of the city or

Agency; therefore, the costs do not meet the administrative carve out in HSC section 34171 (b). As such, \$657,795 is reclassified as administrative costs.

- Item No. 58 – Tennyson Preservation Maintenance Agreement (Agreement) in the amount of \$145,000. Finance approves this item. During the Meet and Confer, the Agency identified that interest accrued on the Operating Reserve is required in the contract to be capitalized at construction closing. According to the Low and Moderate Income Housing Fund Due Diligence Review Meet and Confer letter dated April 6, 2013, Finance permitted the expenditure of \$173,518 of the original \$300,000 total outstanding obligation required by the Agreement. Therefore the remaining reserve in the amount of \$126,482 (\$300,000 - \$173,518) plus the accrued interest \$18,527 is eligible for RPTTF this period.
- Claimed administrative costs exceed the allowance by \$657,795. HSC section 34171 (b) limits fiscal year 2013-2014 administrative expenses to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$250,000 in administrative expenses. The Alameda County Auditor-Controller's Office distributed \$125,000 for the July through December 2013 period, thus leaving a balance of \$125,000 available for the January through June 2014 period. Although 125,000 is claimed for administrative cost, Item No. 55 in the amount of \$230,000 and Item No. 56 in the amount of \$427,795, totaling \$657,795 is considered administrative expenses and should be counted toward the cap. Therefore, \$657,795 of excess administrative cost is not allowed.

Pursuant to HSC Section 34186 (a), successor agencies were required to report the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. The amount of RPTTF approved in the table below 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 table below includes only the prior period adjustment that was self-reported by the Agency.

Except for items denied in whole or in part as enforceable obligations that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 13-14B.

The Agency's maximum approved RPTTF distribution for the reporting period is \$3,190,691 as summarized on next page:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	3,807,064
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 3,932,064
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Total RPTTF approved for non-administrative obligations	3,807,064
Total RPTTF requested for administrative obligations	125,000
<u>Reclassified Items</u>	
Item No. 55	230,000
Item No. 56	427,795
Total RPTTF for administrative obligations	782,795
Total RPTTF approved for non-administrative obligations	3,149,269
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)	125,000
Total RPTTF approved for obligations	3,274,269
Self-Reported ROPS III prior period adjustment (PPA)	(83,578)
Total RPTTF approved for distribution	\$ 3,190,691
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Administrative Cost Cap Calculation	
Total RPTTF for 13-14A (July through December 2013)	2,184,184
Total RPTTF for 13-14B (January through June 2014)	3,807,064
Total RPTTF for fiscal year 2013-14	5,991,248
Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or \$250,000)	250,000
Administrative allowance for 13-14A (July through December 2013)	125,000
Allowable RPTTF distribution for administrative cost for ROPS 13-14B	125,000

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. Beginning with the ROPS 13-14B period, Finance required successor agencies to identify fund balances for various types of funds in its possession. During our ROPS 13-14B review, Finance requested financial records to support the fund balances reported by the Agency; however, Finance was unable to reconcile the financial records to the amounts reported. As a result, Finance will continue to work with the Agency after the ROPS 13-14B review period to properly identify the Agency's fund balances. If it is determined the Agency possesses fund balances that are available to pay approved obligations, the Agency should request the use of these fund balances prior to requesting RPTTF in ROPS 14-15A.

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

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14B Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%2013-14B%20Forms%20by%20Successor%20Agency/).

This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2014. This determination applies only 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 Evelyn Suess, Supervisor or Derk Symons, Lead Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Tracy Vesely, Finance Director, City of Hayward
Ms. Carol S Orth, Tax Analysis, Division Chief, Alameda County
California State Controller's Office