DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 17, 2014

Mr. Marc Puckett, Assistant Town Manager - Finance & Admin
Town of Apple Valley
14975 Dale Evans Parkway
Apple Valley, CA 92307

Dear Mr. Puckett:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 10, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the Town of Apple Valley Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15B) to Finance on September 30, 2014, for the period of January through June 2015. Finance issued a ROPS determination letter on November 10, 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 December 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 items being disputed.

- Item No. 29 – Redevelopment Agency (RDA) Obligations paid via Advanced Funds in the amount of $3,281,514. Finance continues to deny this item. We note that this item is related to an alleged negative cash balance of the former RDA. During the Low and Moderate Income Housing Funds (LMIHF) and Other Funds and Accounts (OFA) Due Diligence Reviews (DDR) required pursuant to HSC section 34179.6, it is our understanding that the former RDA commingled its LMIHF and other funds. In doing so, the former RDA pulled funding from its commingled account to pay for its various obligations. The Agency claims that some of the commingled LMIHF amounts were used to pay for non-housing obligations resulting in a negative balance in the OFA DDR totaling $3,281,514.

  We note that during the July through December ROPS period (ROPS 14-15A), the Agency provided a series of agreements between the Town and various third parties totaling $5,627,836 to substantiate the negative cash balance. However, as stated in our determination letter dated May 16, 2014, these agreements are not enforceable obligations as defined in HSC section 34171 (d). During the ROPS 14-15B meet and confer, the Agency also provided an Owner Participation Agreement (OPA) between the former RDA and Apple Valley Commons I, LLC, dated March 1, 2007 totaling $1,400,000 and employment-related agreements and records totaling $2,200,000.

However, Finance has been unable to trace back whether payments previously made for these obligations (totaling $9,227,836) were drawn down from the RDA's other funds, which the Agency claims resulted in the negative balance. Furthermore, it is unclear whether there is a mechanism in the dissolution statutes that would recognize this for payment on a future ROPS even if the Agency were able to demonstrate that the payments were actually drawn down from the RDA's other funds. Therefore, Finance cannot approve this item as an enforceable obligation.

- Claimed administrative costs exceed the allowance by $51,113. HSC section 34171 (b) limits the fiscal year 2014-2015 administrative expenses to three percent of property tax allocated to the Agency or $250,000, whichever is greater. The San Bernardino County Auditor-Controller's Office distributed $150,463 administrative costs for the July through December 2014 period, thus leaving a balance of $99,537 available for the January through June 2015 period. Although $150,650 is claimed for administrative cost, only $99,537 is available pursuant to the cap. Therefore, $51,113 of excess administrative cost is not allowed.

  Further, although the administrative costs claimed have been adjusted to comply with the fiscal year administrative cap pursuant to HSC section 34171 (b), Finance notes the oversight board has approved an amount that appears excessive, given the number and nature of the obligations listed on the ROPS. HSC section 34179 (i) requires the oversight board to exercise a fiduciary duty to the taxing entities. Therefore, Finance encourages the oversight board to apply adequate oversight when evaluating the administrative resources required to successfully wind-down the Agency.

During our initial review, which may have included obtaining financial records, Finance determined the Agency possesses $924,893 in Other Funds that should be used prior to requesting RPTTF pursuant to HSC section 34177 (l) (1) (E). As such, Finance reclassified Item No. 8 to those balances. During the meet and confer, the Agency contested the reclassification claiming that due to the negative cash balance discussed in Item 29, the amount is not available. Our review indicates that the available Other Funds are derived from a distribution the Agency received from the Victor Valley Economic Development Authority (VVEDA) for the most recent July through December 2014 period (ROPS 14-15A).

Pursuant to the VVEDA Joint Powers Authority (JPA) agreement, VVEDA funds are restricted for use on projects within the VVEDA project area. Therefore, Finance will not reclassify Item No. 8 to those VVEDA funds. We note, however, that the only enforceable obligation tied to the VVEDA funds is Item Nos. 1 and 2 – 2005 and 2007 Tax Allocation Bonds totaling $356,635 and $360,279, respectively. Since the Agency requested Other Funds for these items, no reclassification is necessary; however, the Agency will not be permitted to receive any funds from VVEDA in the ROPS 14-15B period because it has sufficient VVEDA funds on hand to make its ROPS 14-15B debt service payments secured by VVEDA funds. In addition, amounts the Agency is eligible to receive from VVEDA in future ROPS periods may be reduced until the Other Funds on hand attributable to VVEDA revenues are used towards VVEDA project area obligations (Item Nos. 1 and 2).

In addition, per Finance's letter dated November 10, 2014, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15B form the estimated obligations and actual payments (prior period adjustments)

associated with the January through June 2014 period. The amount of RPTTF approved in the table below reflects 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. Proposed CAC adjustments were not received in time for inclusion in this letter; therefore, the amount of RPTTF approved in the table below only reflects the prior period adjustment self-reported by the Agency.

In addition, Finance noted the following during our review:

- On the ROPS 13-14B Prior Period Adjustment worksheet, the Agency's expenditures exceeded Finance's authorization for the following items:
    - Other Funding totaling $123,168 – Item No. 8, $81,617; Item No. 17, $37,717; Item 19, $1,008; and Item No. 26, $2,826.

  Per HSC section 34177 (a) (3), only those payments listed on ROPS may be made by the Agency from the funds specified on the ROPS. However, these items were determined to be enforceable obligations for the ROPS 14-15B period. Therefore, Finance is increasing the Agency's authorization for the ROPS 14-15B period to ensure that authorization is consistent with expenditures for the approved enforceable obligations. As these Other Funds were previously expended, the increase in authorization should not result in increased expenditures for the current ROPS period, but should merely allow the Agency to reconcile actual expenditures to the authorization.

  HSC sections 34177 (a) (4) and 34173 (h) provide mechanisms when Agency payments must exceed the amounts authorized by Finance. Please ensure the proper expenditure authority is received from your Oversight Board and Finance prior to making payments on enforceable obligations.

Except for the item denied in whole or in part or the item that has been reclassified, Finance is not objecting to the remaining items listed on your ROPS 14-15B. The Agency's maximum approved RPTTF distribution for the reporting period is $1,684,125 as summarized in the Approved RPTTF Distribution Table below:

Approved RPTTF Distribution For the period of January through June 2015		
Total RPTTF requested for non-administrative obligations		4,866,102
Total RPTTF requested for administrative obligations		150,650
Total RPTTF requested for obligations on ROPS	**$**	**5,016,752**
Total RPTTF requested for non-administrative obligations		**4,866,102**
Denied Item		
Item No. 29		(3,281,514)
Total RPTTF for non-administrative obligations		**1,584,588**
Total RPTTF authorized for non-administrative obligations	**$**	**1,584,588**
Total RPTTF requested for administrative obligations		**150,650**
Administrative costs in excess of the cap (see Admin Cost Cap table below)		(51,113)
Total RPTTF authorized for administrative obligations	**$**	**99,537**
Total RPTTF authorized for obligations	**$**	**1,684,125**
ROPS 13-14B prior period adjustment		0
Total RPTTF approved for distribution	**$**	**1,684,125**

Administrative Cost Cap Calculation		
Total RPTTF for 14-15A (July through December 2014)		794,588
Total RPTTF for 14-15B (January through June 2015)		1,584,588
Less approved unfunded obligations from prior periods		0
Total RPTTF for fiscal year 2014-2015		**2,379,176**
Allowable administrative cost for fiscal year 2014-15 (Greater of 3% or $250,000)		250,000
Administrative allowance for 14-15A (July through December 2014)		150,463
Allowable RPTTF distribution for administrative cost for ROPS 14-15B		**99,537**
Total RPTTF administrative obligations after Finance adjustments		150,650
Administrative costs in excess of the cap	**$**	**(51,113)**

Please refer to the ROPS 14-15B 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 January 1 through June 30, 2015. 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 the 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 agency in the RPTTF.

Pursuant to HSC section 34177 (a) (3), only those payments listed on an approved ROPS may be made by the successor agency from the funds specified in the ROPS. However, if for

whatever reason the Agency needs to make payments for approved obligations from another funding source, HSC section 34177 (a) (4) requires the Agency to first obtain oversight board approval.

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

Sincerely,

JUSTYN HOWARD
Acting Program Budget Manager

cc: Mr. Orlando Acevedo, Economic Development Manager, Town of Apple Valley
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office