



December 17, 2014

Mr. Edmund Suen, Finance Director
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Dear Mr. Suen:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 13, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of East Palo Alto 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 13, 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 2, 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. 3 – Repayment Agreement in the amount of \$511 and with a total outstanding obligation of \$6,413,730. Finance continues to deny this item. Pursuant to HSC section 34191.4 (b), loan agreements between the former redevelopment agency (RDA) and sponsoring entity may be placed on the ROPS if the following requirements are met: (1) The Agency has received a Finding of Completion; and (2) The Agency's oversight board approves the loan as an enforceable obligation by finding the loan was for legitimate redevelopment purposes.

The Agency received a Finding of Completion on July 16, 2013. OB Resolution No. OB 2014-04, approving the loans between the former RDA and the City of East Palo Alto finding the loan was for legitimate redevelopment purposes, was denied in full, including the loan pertaining to Item No. 3 in the total outstanding amount of \$6,413,730, as detailed in our letter dated October 30, 2014. HSC section 34171 (d) (1) (B) defines a "loan" as money borrowed by the Agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required payment schedule or other mandatory loan terms. The agreement provided by the Agency only conveyed property to the former RDA and no money was actually borrowed. Therefore, the Agreement is not considered a valid loan agreement as defined in the dissolution statutes. The additional information provided by the Agency during the meet and confer did not

substantiate money was actually borrowed; Therefore, Item No. 3 is not an enforceable obligation and not eligible for funding on the ROPS.

In addition, per Finance's letter dated November 13, 2014, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item No. 9 – Project Implementation Costs in the amount of \$74,695 and with a total outstanding obligation of \$189,800 is not an enforceable obligation and not eligible for funding. Project implementation costs are eligible for funding on ROPS to the extent they are associated with an enforceable obligation. The project implementation costs pertaining to Item No. 9 are not associated with an enforceable obligation. Therefore, Item No. 9 is not eligible for funding on the ROPS.
- Item No. 19 – Housing Entity Administrative Cost Allowance in the amount of \$150,000 and with a total outstanding obligation of \$600,000 is not an enforceable obligation and not eligible for funding. Pursuant to HSC section 34171 (p), the housing successor administrative cost allowance (ACA) is only appropriate if the city, county, or city and county that authorized the creation of the former RDA elected to not assume the housing functions of the former RDA. The City elected to retain the housing functions of the former RDA. Therefore, the City is not eligible for the housing successor ACA.

The administrative costs claimed are within the fiscal year administrative cap pursuant to HSC section 34171 (b). However, 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 review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should be used prior to requesting Redevelopment Property Tax Trust Fund (RPTTF). Pursuant to HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.

Therefore, the funding source for the following item has been reclassified to Reserve Balances in the amount specified below:

Item No. 15 – Administrative Costs in the amount of \$57,446. The Agency requests \$125,000 of RPTTF; however, Finance is reclassifying \$57,446 to Reserve Balances. This item is an enforceable obligation for the ROPS 14-15B period. However, the Agency has \$57,446 in available Reserve Balances. Therefore, Finance is approving RPTTF in the amount of \$67,554 and the use of Reserve Balances in the amount of \$57,446, totaling \$125,000.

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. 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 review of the Agency's self-reported prior period adjustment.

Except for the items denied in whole 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 \$584,584 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	869,989
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations on ROPS	\$ 994,989
Total RPTTF requested for non-administrative obligations	869,989
<u>Denied Items</u>	
Item No. 3	(511)
Item No. 9	(74,695)
Item No. 19	(150,000)
	(225,206)
Total RPTTF authorized for non-administrative obligations	\$ 644,783
Total RPTTF requested for administrative obligations	125,000
<u>Cash Balances - Item reclassified to Reserve Balances</u>	
Item No. 15	(57,446)
Total RPTTF authorized for administrative obligations	\$ 67,554
Total RPTTF authorized for obligations	\$ 712,337
ROPS 13-14B prior period adjustment	(127,753)
Total RPTTF approved for distribution	\$ 584,584

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. Carlos Martinez, Economic Development Manager, City of East Palo Alto
Mr. Bob Adler, Auditor-Controller, County of San Mateo
California State Controller's Office