



December 17, 2014

Mr. Andrew White, Finance Manager
City of Poway
13325 Civic Center Drive
Poway, CA 92064

Dear Mr. White:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 7, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Poway Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15B) to Finance on September 25, 2014, for the period of January through June 2015. Finance issued a ROPS determination letter on November 7, 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 November 20, 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. 14 – Judgment Case No. 667691 in the amount of \$500,000 is denied. Finance continues to deny this item as. We also note that the Agency did not provide any additional information or documentation to support this item is an enforceable obligation. Therefore, as previously determined, with the passing of ABx1 26 and AB1484, the Agency is no longer allowed to enter into contracts pursuant to HSC section 34163 (b). As there are no underlying contracts for this obligation, there are no enforceable obligations tied to this judgment. In addition, the judgment states the Agency is to set aside the funds for the life of the redevelopment project. Since there are no current projects specified or in progress, there is no enforceable obligation tied to this judgment. Therefore, this item is not an enforceable obligation and not eligible for funding.
- Item No. 270 – Housing Entity Admin Cost Allowance totaling \$150,000. Finance continues to deny this item. Finance denied this item because pursuant to HSC section 34171 (p), the housing entity administrative cost allowance is applicable only in cases where the city, county, or city and county that authorized the creation of the redevelopment agency (RDA) elected to not assume the housing functions. Because the housing entity to the former RDA of the City of Poway (City) is the City-formed

Housing Authority (Authority), and the Authority operates under the control of the City, the Authority is considered the City under Dissolution Law (ABx1 26 and AB 1484).

The Agency contends that the City elected not to retain the housing functions, but the Authority, as a separate legal entity from the City, did retain the housing functions pursuant to HSC section 34176 (b) and should therefore be eligible for the housing entity administrative allowance. However, pursuant to HSC section 34167.10 (a), the definition of city includes, but is not limited to, any reporting entity of the city for purposes of its comprehensive annual financial report (CAFR), any component unit of the city, or any entity controlled by the city or for which the city is financially responsible or accountable. HSC section 34167.10 (a) defines city for purposes of all of Dissolution Law, which includes HSC section 34171, as amended by AB 471, and HSC section 34176. The Authority is included in the City's CAFR, which identifies the Authority as a component unit of the City and states that the City is financially accountable for the component units.

Although the Authority is a separate legal entity from the City, HSC section 34167.10 (c) states that it shall not be relevant that the entity is formed as a separate legal entity. It should also be noted that HSC section 34167.10 (c) goes on to state that "the provisions of this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part [Part 1.8] and Part 1.85...and any attempt to determine otherwise would thwart the intent of these two parts." Therefore, based on our review, the City, by way of the Authority, elected to retain the housing functions pursuant to HSC section 34176 (a) and is not eligible for \$150,000 of housing entity administrative allowance.

- Item Nos. 271, 277 and 280 through 285 – Finance notes the total outstanding balance for the City loans are overstated as follows:

Item No.	Agency Listed as Total Outstanding	Finance Recalculated Amount	Variance
271	\$ 890,613	\$ 823,988	\$ 66,625
277	\$ 1,969,546	\$ 1,905,318	\$ 64,228
Item No.	Agency Listed as Total Outstanding	Finance Recalculated Amount	Variance
280	\$ 82,597	\$ 75,870	\$ 6,727
281	\$ 804,175	\$ 738,686	\$ 65,489
282	\$ 355,490	\$ 325,911	\$ 29,579
283	\$ 97,612	\$ 89,515	\$ 8,097
284	\$ 88,519	\$ 81,265	\$ 7,254
285	\$ 42,902	\$ 39,403	\$ 3,499
Total	\$ 4,331,454	\$ 4,079,956	\$251,498

Finance maintains that the total outstanding balance for the Cooperation Agreement is overstated as it includes miscalculated interest. The Agency claims it recalculated the accumulated interest by using the Local Agency Investment Fund (LAIF) interest rate that was applicable at the time the oversight board approved the resolution finding that

the loans were for legitimate redevelopment purposes. However, it appears as though the Agency used the incorrect rate. The oversight board resolutions were approved by the oversight board on April 30, 2014. The applicable interest rate for that period was 0.22 percent.

Finance has recalculated the total outstanding loan balance to be approximately \$4,079,956 (see table above). Since the amount requested for ROPS 14-15B does not exceed the repayment formula outlined in HSC section 34191.4 (b) (2) (A), Finance is approving the amount requested.

- Item Nos. 272 through 276, 278, 279, 286 and 287 – City loans totaling \$9,050,953. Finance continues to deny these items at this time. During the meet and confer the Agency claims they submitted additional information and documentation to Finance for review to support the oversight board actions previously submitted; however, that information is still pending review. To the extent the additional information and documentation prompts a revision to Finance's previous oversight board resolution determination, these items may be listed on a future ROPS.
- Claimed administrative costs exceed the allowance by \$202,437. HSC section 34171 (b) limits fiscal year 2014-2015 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 \$477,981 in administrative expenses. The San Diego County Auditor-Controller's (CAC) Office distributed \$250,000, thus leaving a balance of \$227,981 available for the January through June 2015 period. Although \$392,418 is claimed for administrative cost, Item Nos. 42 and 247 for legal services in the amount of \$38,000 is considered an administrative expense and should be counted toward the cap. Therefore, \$202,437 of excess administrative cost is not allowed.

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 Funds (RPTTF). The Agency claims that these funds are encumbered pursuant to Item 14; however, because Item 14 has been denied, these funds are available for use on other enforceable obligations. Therefore, as previously stated, 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. The Agency provided financial records that displayed unused funds in the amount of \$2,387,140 originating from the ROPS 13-14A prior period adjustment wherein the approved RPTTF was insufficient to allow for the prior period adjustment for that ROPS period.

Therefore the funding source for the following item has been reclassified:

- Item No. 3 – Tax Allocation Bonds has been partially reclassified to Reserve Balances in the amount of \$2,387,140. The Agency requests \$7,481,137 of RPTTF and \$235,013 of Other Funds; however, Finance is reclassifying \$2,387,140 of RPTTF to Reserve Balances. This item is an enforceable obligation for the ROPS 14-15A period. However, the obligation does not require payment from property tax revenues and the Agency has \$2,387,140 in available Reserve Balances. Therefore, Finance is approving RPTTF in the amount of \$5,093,997, Other Funds in the amount of \$235,013 and the use of Reserve Balances in the amount of \$2,387,140, totaling \$7,716,150.

In addition, per Finance's letter dated November 7, 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. 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 review of the Agency's self-reported prior period adjustment.

Except for the items denied in whole or in part or items that have 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 \$9,714,645 as summarized in the Approved RPTTF Distribution Table on next page:

Approved RPTTF Distribution	
For the period of January through June 2015	
Total RPTTF requested for non-administrative obligations	13,080,586
Total RPTTF requested for administrative obligations	392,418
Total RPTTF requested for obligations on ROPS	\$ 13,473,004
Total RPTTF requested for non-administrative obligations	13,080,586
<u>Denied Items</u>	
Item No. 14	(500,000)
Item No. 270	(150,000)
Item No. 272	(80,112)
Item No. 273	(26,879)
Item No. 274	(77,232)
Item No. 275	(69,389)
Item No. 276	(40,521)
Item No. 278	(6,357)
Item No. 279	(37,533)
Item No. 286	(98,126)
Item No. 287	(66,676)
	(1,152,825)
<u>Reclassified Items</u>	
Item No. 42	(8,000)
Item No. 247	(30,000)
	(38,000)
<u>Cash Balances - Item reclassified to Reserve Balances</u>	
Item No. 7	(2,387,140)
Total RPTTF authorized for non-administrative obligations	\$ 9,502,621
Total RPTTF requested for administrative obligations	392,418
<u>Reclassified Items</u>	
Item No. 42	8,000
Item No. 247	30,000
	38,000
Administrative costs in excess of the cap (see Admin Cost Cap table below)	(202,437)
Total RPTTF authorized for administrative obligations	\$ 227,981
Total RPTTF authorized for obligations	\$ 9,730,602
ROPS 13-14B prior period adjustment	(15,957)
Total RPTTF approved for distribution	\$ 9,714,645
Administrative Cost Cap Calculation	
Total RPTTF for 14-15A (July through December 2014)	6,430,068
Total RPTTF for 14-15B (January through June 2015)	9,502,621
Less approved unfunded obligations from prior periods	0
Total RPTTF for fiscal year 2014-2015	15,932,689
Allowable administrative cost for fiscal year 2014-15 (Greater of 3% or \$250,000)	477,981
Administrative allowance for 14-15A (July through December 2014)	250,000
Allowable RPTTF distribution for administrative cost for ROPS 14-15B	227,981
Total RPTTF administrative obligations after Finance adjustments	430,418
Administrative costs in excess of the cap	\$ (202,437)

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: Ms. Ashley Jones, Senior Management Analyst, City of Poway
Mr. Jon Baker, Senior Auditor and Controller Manager, San Diego County
California State Controller's Office