



May 15, 2015

Mr. Chris Woidzik, Interim Finance Director
City of Avalon
309 West 4th Street
Santa Ana, CA 92701

Dear Mr. Woidzik:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 14, 2015. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Avalon Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16A) to Finance on March 3, 2015, for the period of July through December 2015. Finance issued a ROPS determination letter on April 14, 2015. Subsequently, the Agency requested a Meet and Confer session on one or more of the determinations made by Finance. The Meet and Confer session was held on April 29, 2015.

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 determinations being disputed.

- Item No. 11 – Legal Services in the amount of \$2,000,000 from the Redevelopment Property Tax Trust Fund (RPTTF). Finance continues to reclassify this item to Bond Proceeds. Finance initially reclassified this item to bond proceeds because this project is funded with bond proceeds and the costs associated with this project should also be funded with bond proceeds. During the Meet and Confer process, the Agency contended that the Bond Proceeds have been fully encumbered to fund Item No. 6 and that another funding source is needed to fund the legal services. However, we note that Item No. 6 is funded with excess pre-2011 bond proceeds. Under HSC section 34191.4 (c)(1) the use of excess bond proceeds does not constitute enforceable obligations as per HSC section 34171 and therefore, do not create further enforceable obligations. As such, the Agency's request to fund project management costs incidental to the use of excess bond proceeds is not eligible for funding out of RPTTF. Finance notes that the Agency should use bond proceeds to fund project related costs. Alternatively, the Agency could use its administrative allowance for such costs as well.
- Item No. 24 – Housing administrative cost allowance pursuant to AB 471 in the amount of \$75,000. 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 redevelopment agency of the City of Avalon is the City-formed Housing Authority (Authority), the Authority operates under the control of the City and 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 elect to 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, 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 controlled by the City because the City was involved in the formation of the Authority and they share common governing boards, which are factors for consideration when determining if an entity is controlled by the city pursuant to HSC section 34167.10 (b).

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 \$75,000 of housing entity administrative allowance.

- Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 15-16A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 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 that was amended during the Meet and Confer process.

In addition, per Finance's letter dated April 14, 2015, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item No. 16 – Continuing Bond Disclosure and Bond Arbitrage in the amount of \$12,500 is partially approved. Although \$12,500 is requested for the six-month period, the documents provided by the Agency only supported \$3,350. Therefore, the excess \$9,150 is not eligible for RPTTF funding.

The administrative costs claimed are within the fiscal year administrative cap pursuant to HSC section 34171 (d). However, Finance notes the oversight board has approved an amount that appears excessive, given the number and nature of the other obligations listed in 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.

Except for the items denied in whole or in part, Finance is not objecting to the remaining items listed on your ROPS 15-16A. The Agency's maximum approved RPTTF distribution for the reporting period is \$1,885,063 as summarized in the Approved RPTTF Distribution table below:

Approved RPTTF Distribution	
For the period of July through December 2015	
Total RPTTF requested for non-administrative obligations	1,915,877
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations on ROPS	\$ 2,040,877
Total RPTTF requested for non-administrative obligations	1,915,877
<u>Denied Items</u>	
Item No. 16	(9,150)
Item No. 24	(75,000)
	(84,150)
<u>Reclassified Item</u>	
Item No. 11	(50,000)
Total RPTTF authorized for non-administrative obligations	\$ 1,781,727
Total RPTTF requested for administrative obligations	125,000
<u>Reclassified Item</u>	
Item No. 11	50,000
	50,000
Total RPTTF authorized for administrative obligations	\$ 175,000
Total RPTTF authorized for obligations	\$ 1,956,727
ROPS 14-15A prior period adjustment	(71,664)
Total RPTTF approved for distribution	\$ 1,885,063

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. During the ROPS 15-16A review, Finance requested financial records to support the cash balances reported by the Agency; however, the Agency was unable to support the amounts reported. The beginning balances for Bond Funds, Other Funds, and RPTTF could not be supported by the Agency's financial records. As a result, Finance will continue to work with the Agency after the ROPS 15-16A review period to properly identify the Agency's cash balances. If it is determined the Agency possesses cash balances that are available to pay approved obligations, the Agency should request the use of these cash balances prior to requesting RPTTF in ROPS 15-16B.

Please refer to the ROPS 15-16A 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 July 1 through December 31, 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 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 Mary Halterman, Analyst, at (916) 445-3274.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Ms. Suzy Kim, Associate, City of Avalon
Ms. Kristina Burns, Manager, Department of Auditor-Controller, Los Angeles County
California State Controller's Office