

April 13, 2015

Ms. Maria Oberg, Finance Director  
City of Emeryville  
1333 Park Avenue  
Emeryville, CA 94608

Dear Ms. Oberg:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Emeryville Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16A) to the California Department of Finance (Finance) on March 2, 2015 for the period of July 1 through December 31, 2015. Finance has completed its review of your ROPS 15-16A, which may have included obtaining clarification for various items.

Based on a sample of line items reviewed and application of the law, Finance made the following determinations:

- Item No. 119 – Pre-2011 Excess Housing Bond Proceeds Funding Agreement (Funding Agreement) in the amount of 164,333 is not allowed. Review of this item incorporated the Agency's Oversight Board (OB) Resolution OB02-15 approving a Funding Agreement between the Agency and the City of Emeryville (City).

The OB action implies authorization for the Agency to incur obligations beyond the limited authority provided by Dissolution Law. Specifically, Paragraph K of the Funding Agreement provides that indebtedness is created and that tax increment received by the Agency is pledged to pay this indebtedness. Similarly, under section 2.1 of the Funding Agreement, the Agency agrees that the Funding Agreement is an enforceable obligation of the Agency for the purpose of achieving the purposes for which the bonds were sold and are obligations to make payments authorized and incurred pursuant to HSC sections 33679, 34176 (g), 34177 (i), and 34191.4 (c). These statements go beyond the expenditure of excess pre-2011 bond proceeds and obligate the Agency to pledge and spend property taxes. Therefore, OB Resolution OB02-15 authorizing the Funding Agreement is not approved.

As authorized by HSC section 34179 (h), Finance is returning your OB action to the board for reconsideration. The transfer of the housing bond proceeds cannot be supported by the Funding Agreement at this time, and therefore Item No. 119 is not an enforceable obligation at this time.

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 Redevelopment Property Tax Trust Fund (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.

The amount of RPTTF approved in the table below includes excess prior period adjustment (PPA) of \$2,654,788. The current approved RPTTF is insufficient to allow for the prior period adjustments of \$2,654,788 during this ROPS period. The Agency should apply the remaining funds prior to requesting RPTTF on future ROPS.

The Agency's maximum approved RPTTF distribution for the reporting period is zero as summarized in the Approved RPTTF Distribution table below:

<b>Approved RPTTF Distribution</b>	
<b>For the period of July through December 2015</b>	
Total RPTTF requested for non-administrative obligations	0
Total RPTTF requested for administrative obligations	0
<b>Total RPTTF requested for obligations on ROPS*</b>	<b>\$ 0</b>
Total RPTTF authorized for non-administrative obligations	0
Total RPTTF authorized for administrative obligations	0
<b>Total RPTTF authorized for obligations</b>	<b>\$ 0</b>
ROPS 14-15A prior period adjustment	(2,654,788)
Less: Excess PPA	2,654,788
<b>Total RPTTF approved for distribution</b>	<b>\$ 0</b>

\*No RPTTF funding requested on this ROPS; the Agency's obligations are being funded with Bond Proceeds and Reserve Balance funding.

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 Proceeds, Reserve Balances, 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>

Absent a Meet and Confer, 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 Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Program Budget Manager

cc: Mr. Michael Biddle, City Attorney, City of Emeryville  
Ms. Carol S. Orth, Tax Analysis, Division Chief, Alameda County  
California State Controller's Office