



December 18, 2012

Ms. Wendy Cosin, Deputy Planning Director
City of Berkeley
2118 Milvia Street, 3rd Floor
Berkeley, CA 94704

Dear Ms. Cosin:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 18, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Berkeley Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 4, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 18, 2012. 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 29, 2012.

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 item being disputed.

- Item No. 2 – Savo Island Loan Payable in the amount of \$759,600 of Redevelopment Property Tax Trust Fund (RPTTF) funding. Finance continues to deny this item at this time. The Agency contends the item is a loan entered into by the former redevelopment agency (RDA) and the City of Berkeley (City) using funds from the City's Retiree Medical Trust Fund, a separate and distinct benefits trust fund managed by the City. However, Finance continues to maintain that this item is a loan between the City and the former RDA. Per HSC section 34171 (d) (2), loan agreements entered into between the RDA and the city, county, or city and county that created it, within two years of the date of creation of the RDA or solely for the purpose of securing or repaying indebtedness obligations, may be deemed to be enforceable obligations. However, the loan was not entered into within two years of the date of creation of the RDA or solely for the purpose of securing or repaying indebtedness obligations. Upon receiving a Finding of Completion from Finance, HSC section 34191.4 (b) may cause this item to be enforceable in future ROPS periods.
- Item No. 3 – Bonds Loans in the amount of \$1.6 million; no funding source identified. Finance originally denied this item, but is no longer objecting to the item being listed on the ROPS for this upcoming period. We also note that no funding was requested for the upcoming period. It is our understanding that the City is the holder of all the bonds that were issued by the former RDA. However, the maturity date of the bonds was listed as

December 15, 2012. As such, it appears the debt should have been paid off and no future payments are needed. We are currently making this conclusion as no information was provided to Finance, which demonstrates whether the bond maturity date was lawfully extended. However, Finance will be re-reviewing the item on the next ROPS submittal.

- Administrative costs claimed for RPTTF exceed the allowance by \$63,282. HSC section 34171 (b) limits the 2012-13 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. As such the Agency is eligible for \$250,000 for fiscal year 2012-13. The Agency received \$164,276 in the prior ROPS period leaving \$85,724 available for this ROPS period. Finance continues to reclassify Item 5 (\$5,000 in RPTTF and \$5,000 in Reserves), Item 10 (\$6,706 in Reserves), Item 11 (\$5,000 Reserves), and Item 13 (\$2,300 in Reserves) as administrative costs. Finance is not reclassifying Item 9 (\$15,000 RPTTF) related to the cost of the Due Diligence Reviews or Item 12 (\$11,303 Reserves) related to maintaining property prior to disposition as an administrative cost.

Amount administrative costs for fiscal year 2012-13	\$250,000
Administrative costs claimed for July through December 2012	164,276
Administrative costs claimed for January through June 2013	149,006
Overage	\$63,282

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$994,933 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 932,689
Less: Six-month total for item denied	
Item 2	18,480
Item 5*	5,000
Total approved RPTTF for enforceable obligations	<u>\$ 909,209</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	85,724
Total RPTTF approved:	\$ 994,933
Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 129,735
Total RPTTF for the period January through June 2013	909,209
Total RPTTF for fiscal year 2012-13:	\$ 1,038,944
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	250,000
Administrative allowance for the period of July through December 2012	164,276
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 85,724

*Reclassified as Administrative Cost

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

The amount available from the RPTTF is the same as the property tax increment that was available prior to 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 successor agency in the RPTTF.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2013. 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 questioned on this ROPS or a preceding ROPS.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Danita Hardaway, Associate Management Analyst, City of Alameda
Ms. Carol S. Orth, Tax Analysis, Division Chief, Alameda County
California State Controller's Office