



December 18, 2012

Ms. Kelly McAdoo Morariu
Assistant City Manager
City of Hayward Successor Agency
777 B Street
Hayward, CA 94541

Dear Ms. Morariu:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 19, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Hayward 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 19, 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 16, 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. 3 – Repayment Agreement with City of Hayward in the amount of \$7 million; no funding source identified. Finance continues to deny the item at this time. Finance denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the City that created the former redevelopment agency (RDA) and the former RDA are not enforceable obligation. The Agency requested further clarification. Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is currently not an enforceable obligation.
- Item No. 4 – Loan for the Supplemental Education Revenue Augmentation Fund (SERAF) in the amount of \$3.9 million; no funding source identified. Finance continues to deny the item at this time. Finance denied the item as HSC section 34176 (e) (6) (B) states that loan or deferral repayments shall not be made prior to fiscal year 2013-14. The Agency requested further clarification. The item may be listed for repayment in future ROPS beginning in fiscal year 2013-14 per HSC section 34176 (e) (6) (B). However, this item is currently not an enforceable obligation.

- Item No. 23 – Contract for Security Services in the amount of \$68,000. Finance continues to deny the item. Finance denied the item as HSC section 34177 (h) states the successor agencies are required to expeditiously wind down the affairs of the RDA. Furthermore, HSC section 34181 (e) states that the Oversight Board shall direct the successor agency to determine whether any contracts, agreements, or other arrangements between the dissolved RDA and any private parties should be terminated. The Cinema Place Parking Maintenance and Easement Agreement section 4.03, sub-section D, states that the Agency has the right, but not the obligation, to provide security services, and further states the developer may elect to provide, at its sole expense, the necessary patrol service and security personnel. No contracts for the services have been entered into; therefore, this item is not an enforceable obligation. The Agency contends the item is an enforceable obligation because the former RDA began paying for security services in January 2008 and this is a cost of maintaining an asset prior to disposition. However, the purchase agreement provided for the security services is with the City and not the former RDA or the Agency. Since neither the former RDA nor the Agency are parties to the agreement, this is not an enforceable obligation.
- Item Nos. 52 through 54 – Cinema Place Maintenance Reserve Payments in the amount of \$181,292. Finance continues to deny the items. Finance denied the items as neither the Cinema Place Parking Maintenance Agreement nor the Ground Lease state there is an obligation to fund a reserve account for parking operation costs. The Agency did not dispute Items 52 and 53; however, the Agency contends Item 54 is an enforceable obligation because the former RDA routinely deposited funds into a property maintenance reserve for the Cinema Place project. However, neither the Cinema Place Parking Maintenance Agreement nor the Ground Lease requires that a reserve account be funded. Furthermore, neither ABx1-26 nor AB 1484 allows for the creation of reserves except for bond debt service payments. Therefore, these items are not enforceable obligations and not eligible for entitled to Redevelopment Property Tax Trust Fund (RPTTF) funding.

In addition, per Finance's ROPS letter dated October 19, 2012, the following items not disputed by the Agency continue to be denied:

- Item Nos. 24 through 28 – Contracts for Maintenance and Utilities in the amount of \$49,600. The Cinema Place Parking Maintenance and Easement Agreement section 4.03 states that the Agency will pay 50 percent of the remaining parking operation costs which include maintenance and utilities. The Agency is requesting amounts that are equal or greater than the annual amount of the purchase orders and should only request RPTTF for the amount equal to 50% of the estimated costs. Therefore, of the total combined obligation of \$99,200 listed on the ROPS, \$49,600 is not eligible for RPTTF funding.
- Although Item No. 3 was reclassified as administrative cost, the administrative cost allowance has not been exceeded.

The Agency's maximum approved RPTTF distribution for the reporting period is \$4,216,021 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 4,140,393
Less: Six-month total for item(s) denied or reclassified as administrative cost*	
Item 13*	27,021
Item 23	34,000
Item 24	525
Item 25	1,750
Item 26	3,000
Item 27	7,000
Item 28	125
Item 52**	0
Item 53**	0
Item 54	2,972
Total approved RPTTF for enforceable obligations	<u>\$ 4,064,000</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>152,021</u>
Total RPTTF approved:	\$ 4,216,021

* Reclassified as administrative cost

** No RPTTF funding requested for the reporting period

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.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Tracy Vesely, Finance Director, City of Hayward
Ms. Carol S. Orth, Tax Analysis Division Chief, County of Alameda
California State Controller's Office