



December 18, 2012

Mr. Paul Abelson, Finance Director  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

Dear Mr. Abelson:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 6, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Oakley Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 22, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 6, 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 19, 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 items being disputed.

- Item No. 8 – DS Payment on Interagency Obligations in the amount of \$1.4 million. Finance continues to deny the item at this time. Finance denied the item because this is a Cooperation and Repayment Agreement between the City of Oakley (City) and the former redevelopment agency (RDA) entered into on January 19, 2011. The Agency contends the original obligation was entered into in 2005. However, HSC section 34171 (b) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. The RDA was established in 1999 and the agreement was entered into in 2005. Per HSC section 34191.4 (b), upon obtaining a Finding of Completion from Finance, agreements entered into between the RDA and the city, county, or city and county that created the RDA shall be deemed to be enforceable obligations provided the oversight board makes a finding the loan was for legitimate redevelopment purposes. Therefore, this item is currently not an enforceable obligation and not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding at this time.
- Items Nos. 14, 15 through 22, 23, 27, and 28 – Various bond funded projects as listed below:
  - Item 14 – Oakley Plaza Façade Improvement Project in the amount of \$15,433 bond funds.

- Items 15 through 22, 27 and 28 – Downtown Project totaling \$8.59 million in bond funds.
- Item 23 – Directional Sign Project in the amount of \$51,885 bond funds.

Finance denied the items as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. Finance continues to deny the items at this time based on HSC 34163 (b). Additionally, we note the contract and related documents were entered into by the City, not the former RDA. Therefore, the Agency is not contractually obligated for payment. The Agency also provided resolution SA 06-12 of the City Council acting as the Successor Agency dated April 24, 2012, authorizing the City Manager to execute amendments to the Disposition Agreement for the Downtown Project. However, HSC section 34163 (c) prohibits amending or modifying existing agreements. Therefore, these items are currently not enforceable obligations. However, successor agencies will be eligible to expend bonds issued prior to January 1, 2011, once a finding of completion is received per 34191.4 (c). Those obligations should be reported on a subsequent ROPS.

- Item No. 24 – Main Street Frontage Improvement in the amount of \$800,000 in bond funds. Finance continues to deny the item at this time. Finance denied the item as no construction contract was in place as of the date of the ROPS III review. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. The Agency contends the item is an enforceable obligation because a dedication agreement was entered into on February 24, 2009, in exchange for frontage improvements and the date of the construction contract is in continuance of that agreement. However, the contract is between the City and a third party, the former RDA is not a party to the contract and not contractually obligated under the agreement. Therefore, the item is currently not an enforceable obligation. However, successor agencies will be eligible to expend bonds issued prior to January 1, 2011, once a finding of completion is received per 34191.4 (c). Those obligations should be reported on a subsequent ROPS.
- Item No. 25 – Housing Activities/Programs in the amount of \$2.9 million Low and Moderate Income Housing funds. Finance continues to deny this item. Finance denied the item as the requirement to set aside 20 percent of tax increment funding for low and moderate-income housing programs ended with the passage of the redevelopment dissolution legislation. Obligations associated with the former RDA's previous statutory housing obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations and housing assets...shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of statutory obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency is directly contrary to the wind down directive in ABx1-26/AB1484. Therefore, this item is not an enforceable obligation.

In addition, per Finance's ROPS letter dated October 6, 2012, the following item continues to be reclassified and was not contested by the Agency:

- Item No. 9 – Annual External Audit in the amount of \$4,500 was reclassified as an administrative cost. Although this reclassification increased administrative costs to \$4,500, the administrative cost allowance has not been exceeded.

The Agency's maximum approved RPTTF distribution for the reporting period is \$1,106,308 as summarized below:

<b>Approved RPTTF Distribution Amount For the period of January through June 2013</b>	
Total RPTTF funding requested for obligations	\$ 1,371,308
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 8	265,000
Item 9*	4,500
Total approved RPTTF for enforceable obligations	\$ 1,101,808
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	4,500
<b>Total RPTTF approved:</b>	<b>\$ 1,106,308</b>

\*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: Mr. Bob Campbell, Auditor-Controller, Contra Costa County  
California State Controller's Office