



December 18, 2012

Mr. Gordon Elton, Finance Director
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Dear Mr. Elton:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 11, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Ukiah Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 30, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 11, 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 item being disputed.

- Item No. 1, 10, 11, 12, and 14 – Although enforceable, the types of services requested totaling \$69,000 are considered general administrative expenses and have been reclassified. Finance no longer reclassifies Item 1 as an administrative cost; however, Finance continues to reclassify the remaining items as administrative costs. The Agency contends the items are enforceable obligations because these costs were incurred to preserve the Agency's assets or for the work of winding down the former RDA. Item 1 is related to maintaining assets prior to disposition, which is specifically excluded from the administrative cap. Therefore, Item 1 is an enforceable obligation. However, the remaining items do not fall into any of the following categories that are specifically excluded from the administrative cap as defined by HSC section 34171 (b):
 - Any litigation expenses related to assets or obligations.
 - Settlements and judgments.
 - The costs of maintaining assets prior to disposition.
 - Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs.

As such, Items 10, 11, 12, and 14 continue to be reclassified as administrative costs.

- Item No. 13 and 16 – Contracts between the City and the Agency totaling \$6.2 million. Finance continues to deny these items. Finance denied the items as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. The Agency contends the items are enforceable obligations because the City/Agency agreement was approved by the Oversight Board and not objected to by DOF before AB 1484 amended HSC Section 34178(a), effective June 28, 2012, and on June 20, 2012, the City and the Agency entered the Restated Funding Agreement, which restated and amended a funding agreement originally entered between the City and the former RDA on March 8, 2011. While HSC section 34178 (a) and 34180 (h) authorizes successor agencies to reenter into agreements, any agreement reentered into cannot conflict with the requirements set forth in HSC 34171 (d), as ABx1 26 did not specifically carve out an exception to the definition of an enforceable obligation nor did HSC section 34178 (a) or 34180 (h) not withstand HSC section 34171 (d). Therefore, the Oversight Board had no legal basis to approve an action that directly conflicted with and violated the definition of an enforceable obligation. Even if Finance did not object to the specific Oversight Board actions authorizing the Agency to reenter into agreements, the statute as a whole prohibits such an action from being validated if it conflicts with the definition of an enforceable obligation. Additionally, Finance has clearly defined authority under HSC section 34177 and 34179 (h) to review any items on ROPS to determine whether or not successor agencies are responsible for the obligation listed on their ROPS. Even if an Oversight Board approved an action that created an enforceable obligation, Finance has the authority to review the enforceable obligation for compliance with HSC section 34171 (d) or for compliance with any other statutory requirements contained in Chapter 26, statutes of 2012 (AB 1484). At no time can an Oversight Board action eliminate Finance's authority to review an enforceable obligation as part of a ROPS review.

Furthermore, to the extent the items were to be funded with bond proceeds, we note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010. The bond proceeds requested for use were issued in March 2011. Therefore, the items are not enforceable obligations.

- Item No. 15 and 18 – Infrastructure improvement projects totaling \$2.5 million. Finance continues to deny these items. Finance denied the items as it is our understanding that contracts are not in place for these line items. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The Agency contends the items are enforceable obligations because agreements representing enforceable obligations were in effect prior to June 27, 2011.

For Item 15, the Agency did not provide any agreements entered into by the former RDA with a third party prior to June 27, 2011. To the extent the item was to be funded with bond proceeds, we note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were

issued or if they were issued after December 31, 2010. The bond proceeds requested for use were issued in March 2011. Therefore, the item is not an enforceable obligation.

For Item 18, the project was approved by the former RDA Board on June 1, 2011; however, the funds were not encumbered in the accounting system until June 28, 2011 and no agreements were entered into between the former RDA and the third party until the Promissory Note was entered into on April 11, 2012. Therefore, the item is not an enforceable obligation.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$1,350,439 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 1,343,039
Less: Six-month total for items denied or reclassified as administrative cost	
Item 10*	15,000
Item 11*	12,000
Item 12*	9,000
Item 13	117,600
Item 14*	18,000
Total approved RPTTF for enforceable obligations	<u>\$ 1,171,439</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>179,000</u>
Total RPTTF approved:	\$ 1,350,439

* 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.

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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. Sage Sangiacomo, Assistant City Manager, City of Ukiah
Ms. Meredith J. Ford, Auditor-Controller, Mendocino County
California State Controller's Office