

November 10, 2014

Mr. Marc Puckett, Assistant Town Manager - Finance & Admin  
Town of Apple Valley  
14975 Dale Evans Parkway  
Apple Valley, CA 92307

Dear Mr. Puckett:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the Town of Apple Valley Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15B) to the California Department of Finance (Finance) on September 30, 2014 for the period of January 1 through June 30, 2015. Finance has completed its review of your ROPS 14-15B, 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. 29 – Redevelopment Agency (RDA) Obligations paid via Advanced Funds in the amount of \$3,281,514 are not allowed. Finance continues to deny this item; the Agency has been unable to provide documentation to support the obligations and amounts claimed.

The Agency provided an Owner Participation Agreement (OPA) between the former RDA and Apple Valley Commons I, LLC, dated March 1, 2007, and several employment-related agreements between the Town of Apple Valley (Town) and employees of the Town (a former Assistant Town Manager, Economic and Community Development, and a former Economic Development Specialist.) However, these documents are insufficient to support the requested amount. The OPA incentive was not to exceed \$1,450,000 or the actual cost of installing a traffic signal, to be paid equally from traffic impact fees and RDA tax revenues. The term of the agreement was for 5 years from March 1, 2007.

Additionally, the employment-related agreements (personnel action forms, payroll statements, and employee histories) do not support the requested amounts, and seem unrelated to the obligation. The Agency was unable to provide duty statements or timesheets which document the amount of time spent on the OPA, or in support of the amount claimed.

- Claimed administrative costs exceed the allowance by \$51,113. HSC section 34171 (b) limits the fiscal year 2014-2015 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. The San Bernardino County

Auditor-Controller's Office distributed \$150,463 administrative costs for the July through December 2014 period, thus leaving a balance of \$99,537 available for the January through June 2015 period. Although \$150,650 is claimed for administrative cost, only \$99,537 is available pursuant to the cap. Therefore, \$51,113 of excess administrative cost is not allowed.

Further, the administrative costs claimed have been adjusted to within the fiscal year administrative cap pursuant to HSC section 34171 (b). However, Finance notes the oversight board has approved an amount that appears excessive, given the number and nature of the obligations listed on the ROPS. HSC section 34179 (i) requires the oversight board to exercise a fiduciary duty to the taxing entities. Therefore, Finance encourages the oversight board to apply adequate oversight when evaluating the administrative resources required to successfully wind-down the Agency.

During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should be used prior to requesting RPTTF. Pursuant to HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. The Agency provided financial records that displayed available Other Funds of \$924,893.

Therefore, the funding source for the following item has been reclassified to Other Funds and in the amount specified below:

- Item No. 8 – 2007 Tax Allocation Bonds. The Agency requests \$1,584,588 from RPTTF; however, Finance is reclassifying \$924,893 to Reserve Balances. This item is an enforceable obligation for the ROPS 14-15B period. However, the obligation does not require payment from property tax revenues and the Agency has \$924,893 in available Other Funds. Therefore, Finance is approving RPTTF in the amount of \$659,695 and the use of Other Funds in the amount of \$924,893, totaling \$1,584,588.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15B form the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2014 period. The amount of RPTTF approved in the table below reflects the prior period adjustment self-reported by the Agency.

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. Proposed CAC adjustments were not received in time for inclusion in this letter; therefore, the amount of RPTTF approved in the table below only reflects the prior period adjustment self-reported by the Agency.

In addition, Finance noted the following during our review:

- On the ROPS 13-14B Prior Period Adjustment worksheet, the Agency's expenditures exceeded Finance's authorization for the following items:
  - Other Funding totaling \$123,168 – Item No. 8, \$81,617; Item No. 17, \$37,717; Item 19, \$1,008; and Item No. 26, \$2,826.

Per HSC section 34177 (a) (3), only those payments listed on ROPS may be made by the Agency from the funds specified on the ROPS. However, these items were determined to

be enforceable obligations for the ROPS 14-15B period. Therefore, Finance is increasing the Agency's authorization for the ROPS 14-15B period to ensure that authorization is consistent with expenditures for the approved enforceable obligations. As these Other Funds were previously expended, the increase in authorization should not result in increased expenditures for the current ROPS period, but should merely allow the Agency to reconcile actual expenditures to the authorization.

HSC sections 34177 (a) (4) and 34173 (h) provide mechanisms when Agency payments must exceed the amounts authorized by Finance. Please ensure the proper expenditure authority is received from your Oversight Board and Finance prior to making payments on enforceable obligations.

Except for the item denied in whole or in part or the item that has been reclassified, Finance is not objecting to the remaining items listed on your ROPS 14-15B. If you disagree with the determination with respect to any items on your ROPS 14-15B, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

[http://www.dof.ca.gov/redevelopment/meet\\_and\\_confer/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's maximum approved RPTTF distribution for the reporting period is \$759,232 as summarized in the Approved RPTTF Distribution Table below:

<b>Approved RPTTF Distribution</b>	
<b>For the period of January through June 2015</b>	
Total RPTTF requested for non-administrative obligations	4,866,102
Total RPTTF requested for administrative obligations	150,650
<b>Total RPTTF requested for obligations on ROPS</b>	<b>\$ 5,016,752</b>
<b>Total RPTTF requested for non-administrative obligations</b>	<b>4,866,102</b>
<u>Denied Item</u>	
Item No. 29	(3,281,514)
<b>Total RPTTF for non-administrative obligations</b>	<b>1,584,588</b>
<u>Cash Balances - Item reclassified to other funding sources</u>	
Item No. 8	(924,893)
<b>Total RPTTF authorized for non-administrative obligations</b>	<b>\$ 659,695</b>
<b>Total RPTTF requested for administrative obligations</b>	<b>150,650</b>
Administrative costs in excess of the cap (see Admin Cost Cap table below)	(51,113)
<b>Total RPTTF authorized for administrative obligations</b>	<b>\$ 99,537</b>
<b>Total RPTTF authorized for obligations</b>	<b>\$ 759,232</b>
ROPS 13-14B prior period adjustment	0
<b>Total RPTTF approved for distribution</b>	<b>\$ 759,232</b>

<b>Administrative Cost Cap Calculation</b>	
Total RPTTF for 14-15A (July through December 2014)	794,588
Total RPTTF for 14-15B (January through June 2015)	1,584,588
Less approved unfunded obligations from prior periods	0
<b>Total RPTTF for fiscal year 2014-2015</b>	<b>2,379,176</b>
Allowable administrative cost for fiscal year 2014-15 (Greater of 3% or \$250,000)	250,000
Administrative allowance for 14-15A (July through December 2014)	150,463
<b>Allowable RPTTF distribution for administrative cost for ROPS 14-15B</b>	<b>99,537</b>
Total RPTTF administrative obligations after Finance adjustments	150,650
<b>Administrative costs in excess of the cap</b>	<b>\$ (51,113)</b>

Please refer to the ROPS 14-15B 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 January 1 through June 30, 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 for whatever reason 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.

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Please direct inquiries to Nichelle Thomas, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Acting Program Budget Manager

cc: Mr. Orlando Acevedo, Economic Development Manager, Town of Apple Valley  
Ms. Linda Santillano, Property Tax Manager, San Bernardino County  
California State Controller's Office