

November 14, 2014

Mr. John Andrews, Economic Development Director
City of Ontario
303 East B Street
Ontario, CA 91764

Dear Mr. Andrews:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Ontario Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15B) to the California Department of Finance (Finance) on October 1, 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. 7 – 2009 Facility Upgrade Loan Agreement for the Staples Sales and Distribution Center in the amount of \$10,200,000 is not allowed. The Agency requested \$2,400,000 for the ROPS 14-15B period, which includes \$1,500,000 for an unpaid forgivable loan balance to the developer and \$900,000 for the annual covenant payment. However, the Agency did not provide sufficient documentation to support the need to pay the \$1,500,000 unpaid loan balance to the developer. To the extent the Agency can provide sufficient documents, such as a demand letter for payment or an invoice, to support the requested funding, this amount may be approved on a future ROPS.

In addition, it is our understanding the Agency received the funding for the \$900,000 annual covenant payment during the ROPS 14-15A period; therefore, funding for this same obligation is not necessary during the ROPS 14-15B period. The Agency may request the \$900,000 annual covenant payment again during fiscal year 2015-16. Therefore, this item is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding on this ROPS.

- Item No. 10 – 2007 Ontario Airport Towers Owners Participation Agreement (OPA) in the amount of \$2,500,000 is not allowed. It is our understanding the property associated with the OPA was sold to Tnhyif Reiv India, LLC (Developer) in 2012. The Agency executed the First Amendment to the OPA (Amendment) with the Developer on February 4, 2014, which extended the term of the agreement by 10 years. This is contrary to the Dissolution Law and HSC section 34177 (h), which requires agencies to expeditiously wind down the affairs of the redevelopment agencies.

In addition, HSC section 34163 (c) prohibits an agency from amending or modifying existing agreements with any entity, for any purpose, including extending terms of the agreements. Finally, HSC section 34181 (e) does provide the oversight board with the authority to terminate or renegotiate an agreement in order to reduce liabilities and increase net revenues to the taxing entities, but only if early termination or an amendment would be in the best interest of the taxing entities.

While the amendment may be in the best interests of the Agency, the community, and the winding down of the Agency's business, the Agency was unable to document how the approval of this amendment reduces liabilities and increases net revenues to the taxing entities. Therefore, this item is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item No. 140 – Sales Taxes Withheld by the Board of Equalization and Distributed to Taxing Entities in the amount of \$5,325,128 is denied. The Agency provided an email from the San Bernardino County Auditor-Controller's Office (CAC), stating the CAC will distribute \$5,325,128 to the City of Ontario (City) in compliance with Case No. 34-2013-80001625. However, the email is not sufficient to support the Agency's binding obligation to the City, and the matter has not been settled. As such, this item is not an enforceable obligation and not eligible for RPTTF funding.
- The Agency's claimed administrative costs exceed the allowance by \$239,254. HSC section 34171 (b) limits the fiscal year 2014-15 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$553,957 in administrative expenses. The San Bernardino County Auditor-Controller's Office distributed \$376,211 administrative costs for the July through December 2014 period, thus leaving a balance of \$177,746 available for the January through June 2015 period. Although \$417,000 is claimed for administrative cost, only \$177,746 is available pursuant to the cap. Therefore, \$239,254 of excess administrative cost is not allowed.

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 totaling \$133,539.

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

- Item No. 8 – 2005 MedCal Sales Location Agreement. The Agency requests \$1,449,033 from RPTTF; however, Finance is reclassifying \$133,539 to Other Funds. This item is an enforceable obligation for the ROPS 14-15B period. However, because the Agency has \$133,539 in available Other Funds, Finance is approving RPTTF in the amount of \$1,315,494 and the use of Other Funds in the amount of \$133,539, totaling \$1,449,033 for this item.

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 review 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.

Except for items denied in whole or in part or 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/

The Agency's maximum approved RPTTF distribution for the reporting period is \$3,492,558 as summarized in the Approved RPTTF Distribution Table below:

Approved RPTTF Distribution	
For the period of January through June 2015	
Total RPTTF requested for non-administrative obligations	13,900,016
Total RPTTF requested for administrative obligations	417,000
Total RPTTF requested for obligations on ROPS	\$ 14,317,016
Total RPTTF requested for non-administrative obligations	13,900,016
<u>Denied Items</u>	
Item No. 7	(2,400,000)
Item No. 10	(250,000)
Item No. 140	(5,325,128)
	(7,975,128)
Total RPTTF for non-administrative obligations	5,924,888
<u>Cash Balances - Item reclassified to other funding sources</u>	
Item No. 8	(133,539)
Total RPTTF authorized for non-administrative obligations	\$ 5,791,349
Total RPTTF requested for administrative obligations	417,000
Administrative costs in excess of the cap (see Admin Cost Cap table below)	(239,254)
Total RPTTF authorized for administrative obligations	\$ 177,746
Total RPTTF authorized for obligations	\$ 5,969,095
ROPS 13-14B prior period adjustment	(2,476,537)
Total RPTTF approved for distribution	\$ 3,492,558

Administrative Cost Cap Calculation	
Total RPTTF for 14-15A (July through December 2014)	12,540,352
Total RPTTF for 14-15B (January through June 2015)	5,924,888
Total RPTTF for fiscal year 2014-2015	18,465,240
Allowable administrative cost for fiscal year 2014-15 (Greater of 3% or \$250,000)	553,957
Administrative allowance for 14-15A (July through December 2014)	376,211
Allowable RPTTF distribution for administrative cost for ROPS 14-15B	177,746
Total RPTTF administrative obligations after Finance adjustments	417,000
Administrative costs in excess of the cap	\$ (239,254)

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.

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

Sincerely,



JUSTYN HOWARD
Acting Program Budget Manager

cc: Ms. Charity Hernandez, Redevelopment Manager, City of Ontario
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office