



December 18, 2013

Ms. Sheryl Montgomery, Administrative Services Manager
City of Anaheim
201 South Anaheim Boulevard, Suite 1003
Anaheim, CA 92805

Dear Ms. Montgomery:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 12, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Anaheim Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 30, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 12, 2013. 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 27, 2013.

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. 82 – Professional Services for External Project costs in the amount of \$12,000,000. Finance continues to deny this item. HSC section 34171 (d) (1) (F) states that contracts or agreements necessary for the administration or operation of the successor agency are considered enforceable, which includes the costs of maintaining assets prior to disposition. During the meet and confer, the Agency provided documentation supporting a “Elevator Modernization” proposal for two properties representing about \$2,426,262 of the \$4.6 million requested for the period. Our review of the proposals and the list of other costs provided by the Agency indicate these are improvements to, not costs to maintain, property. In addition, there is no support that these agreements were presented to the Oversight Board and submitted to Finance for review in accordance with HSC section 34179.

The Agency also provided documentation for two contracts for parking garage management that are included in the total requested. Our review of the contract between the former redevelopment agency (RDA) and Clean City, Inc. indicates the agreement was entered into on February 1, 2010 and terminated January 31, 2012. Our review of the contract between the RDA and Central Parking Systems, Inc. indicates the Agreement was entered into on January 1, 2010 and terminated on January 31, 2013. The Agency claims that both these agreement can be and were extended for additional

terms; however, documentation was not provided supporting the Agency presented the extension to the Oversight Board and amendments were not submitted to Finance for review and approval pursuant to HSC section 34177 (h). HSC section 34163 (c) prohibits an Agency from renewing or extending terms of agreements. In addition, HSC section 34177.3 (a) states successor agencies shall lack the authority to, and shall not, create new enforceable obligations. Therefore, for the reasons stated, this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item Nos. 84, 86, and 89 through 92 – Packing District/LAB Disposition and Development Agreement (DDA) and related costs totaling \$3,985,117. Finance no longer denies these items. Finance previously denied the items as there were no contracts executed prior to June 28, 2011, as per HSC section 34163 (b), during the ROPS III period. Additional review of the DDA indicated the parking and alley construction were specifically intended as evidenced by Recital C of the DDA and a Planning Commission Report dated June 21, 2010, demonstrating the need for the parking construction. In addition, per Section 301.2 of the DDA, "Cost of Construction," the former RDA is responsible for the costs related to the parking and alley construction. During the meet and confer, the Agency provided documentation during the meet and confer to establish these are enforceable obligations. Therefore, these items are eligible for RPTTF funding during ROPS 13-14B.
- Item No. 140 – Cooperation/Loan Agreement in the amount of \$1,500,000. Finance no longer denies this item; however, it is reclassified to Other funds. Per Finance's ROPS III letter to the Agency date December 18, 2012, Finance denied the item as no contracts were entered into before June 27, 2011, as per HSC section 34163 (b) and although first time homebuyer loans are expressly allowed by the respective DDAs, the Agency did not provide documentation supporting these loans have been made.

Our review of the documentation provided during the meet and confer indicates the Agency made several loans in 2013 to homebuyers pursuant to three Disposition and Development Agreements (DDA). However, it is unclear from the DDAs provided what the required funding source is. Each of the three DDAs references the loans coming from the lesser of the Base Purchase Price or the Minimum Agency Assistance, as defined in the agreements. The Agency did not provide information on either of these funding sources for us to determine if RPTTF is the appropriate source. Therefore, this item is denied for RPTTF but approved from Other Funds for ROPS 13-14B. The Agency may relist this item on future ROPS for review if additional information supports these amounts should come from RPTTF.

In addition, per Finance's letter dated November 12, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item Nos. 60 and 61 – Low and Moderate Income Housing Fund (LMIHF) Loan Repayments totaling \$8,175,836 for Redevelopment Property Tax Trust Fund (RPTTF) funding are not allowed at this time. HSC section 34176 (e) (6) (B) specifies loan or deferral repayments to the LMIHF shall not be made prior to the 2013-14 fiscal year. While ROPS 13-14B technically falls within fiscal year 2013-14, the repayment of these loaned amounts is subject to the repayment formula outlined in HSC section 34176 (e)(6)(B).

HSC section 34176 (e) (6) (B) allows this repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in the 2012-13 base year. Since the formula does not allow for estimates, the Agency

must wait until the ROPS residual pass-through distributions are known for fiscal year 2013-14 before requesting funding for these obligations. Therefore, the Agency may be able to request funding for the repayment of this loan beginning with ROPS 14-15A.

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14B form the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. The amount of RPTTF approved in the below table includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

Except for the items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14B. The Agency's maximum approved RPTTF distribution for the reporting period is \$12,062,136 as summarized below:

| Approved RPTTF Distribution Amount For the period of January through June 2014 | |
|---|----------------------|
| Total RPTTF requested for non-administrative obligations | 21,130,264 |
| Total RPTTF requested for administrative obligations | 633,908 |
| Total RPTTF requested for obligations | \$ 21,764,172 |
| Total RPTTF requested for non-administrative obligations | 21,130,264 |
| <u>Denied Items</u> | |
| Item No. 60 | (2,386,098) |
| Item No. 82 | (4,600,000) |
| <u>Reclassified Items</u> | |
| Item No. 140 | (347,000) |
| | <u>(7,333,098)</u> |
| | - |
| Total RPTTF approved for non-administrative obligations | 13,797,166 |
| Total RPTTF approved for administrative obligations | 633,908 |
| Total RPTTF approved for obligations | 14,431,074 |
| ROPS III prior period adjustment | (2,368,938) |
| Total RPTTF approved for distribution | \$ 12,062,136 |

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. Beginning with the ROPS 13-14B period, Finance required successor agencies to identify fund balances for various types of funds in its possession. During our ROPS 13-14B review, Finance requested financial records to support the fund balances reported by the Agency; however, Finance was unable to reconcile the financial records to the amounts reported. As a result, Finance will continue to work with the Agency after the ROPS 13-14B review period to properly identify the Agency's fund balances. If it is determined the Agency possesses fund balances that are available to pay approved obligations, the Agency should request the use of these fund balances prior to requesting RPTTF in ROPS 14-15A.

Please refer to the ROPS 13-14B schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14B Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS_13-14B_Forms_by_Successor_Agency/).

This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2014. This determination applies only 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 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.

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 Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Kerry Kemp, Community Investment Manager, City of Anaheim
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office