



December 17, 2013

Mr. Kurt Christiansen, Economic and Community Development Director
City of Azusa
213 East Foothill Boulevard
Azusa, CA 91702

Dear Mr. Christiansen:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 15, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Azusa Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on October 1, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 15, 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 December 4, 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. 33 – Sales Tax Allocation Note in the amount of \$10,005,461. Finance continues to reclassify this item to Other Funds. Our review indicates that the former redevelopment agency (RDA) entered into an Owner Participation Agreement (OPA) with Price Company (Price) on July 18, 1988. Under the OPA, the RDA was to acquire property and convey the property to Price and Price would loan \$4.6 million to the RDA to fulfill the RDA's various obligations under the OPA. The RDA agreed to pay back the loan with sales and use taxes.

Our review also indicates that the City and the RDA entered into an agreement in 1988 contemporaneously with the OPA. The 1988 agreement was rescinded and a new agreement was entered into in May 1989. The new agreement describes the OPA, the resolutions adopted by the City and RDA to allow the RDA to collect sales and use tax, and the repayment by the RDA of the sales and use tax to the City. The Agency claims that since the City/RDA agreement is invalidated under HSC 34171 (d) (2), there is no longer any sales and use tax that goes to the RDA. This is incorrect. The City/RDA agreement does not authorize the RDA to collect sales and use tax. Rather this agreement was entered into for the purpose of repaying the City the sales and use tax received by the RDA. The obligation to repay the sales and use tax to the City under the RDA/City agreement is not an enforceable obligation under HSC 34171(d)(2).

Contrary to the Agency's claim that they can no longer receive sales and use tax, the City and the RDA adopted ordinances for purposes of securing the Price loan. Therefore, the RDA is authorized to collect sales and use tax under state Revenue and Tax Code and as described in the City/RDA agreement. Specifically, upon the adoption of an ordinance by the RDA to collect sales and use tax and a corresponding ordinance adopted by the City to allow the collection by the RDA, the ability to collect sales and use tax by the RDA cannot be repealed as long as amounts are owed under the loan. Therefore, the invalidation of the City/RDA agreement does not invalidate the ability of the RDA, now the Agency, to collect sales and use tax.

We have concluded that the OPA contains an enforceable obligation for the Agency to repay the Price loan. In addition, per the OPA, if sales and use tax collected by the RDA are insufficient, the RDA could use other funds to pay off the loan. However, the Agency has not provided any documentation to support that Sales and Use Taxes are or will be insufficient to repay the loan. Therefore, we have determined this item is an enforceable obligation payable from other funds, specifically sales and use tax.

- Prior Period Adjustment in the amount of \$408,383. The Agency requested review of the prior period adjustment made in accordance with HSC section 34186 (a) by the Los Angeles County Auditor Controller (Controller). During the January through June 2012 ROPS period (ROPS I) the Agency only requested \$128,335 in RPTTF for administrative costs but expended \$250,000. The Agency claims that under HSC section 34171 (b) they believed they were entitled to expend \$250,000 and therefore expended \$250,000. The Controller made a prior period adjustment in the January through June 2013 ROPS period (ROPS III) in accordance with HSC section 34186 (a) for \$121,665 (\$250,000 - \$128,335), the amount expended in excess of the amount approved during the ROPS I period. Our review indicates that the Agency's Other Funds and Accounts Due Diligence Review letter dated May 29, 2013 permitted the Agency to retain the entire amount approved for ROPS III, including the amount of the prior period adjustment made by the Controller which includes the \$121,665. Therefore we have determined the funds were available for the ROPS III period. Since these funds were not expended during the ROPS III period, we have concluded the Controller's prior period adjustment is accurate and no change to the adjustment is necessary.

We remind the Agency that according to HSC section 34177 (a) only those payments listed and approved on the ROPS may be made from the funds specified on the ROPS. Regardless, we have reviewed the items and determined no adjustment to the prior period adjustment is warranted.

In addition, per Finance's letter dated November 15, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item No. 23 – Reserve for the July 2013 bond debt service and expense in the amount of \$746,590. Included in this amount is a request for future bond and note payments. While the reserves for future bond debt service is an enforceable obligation and eligible for RPTTF funding, the note is not eligible for RPTTF funding. It is our understanding; the note, related to Item No. 33, requires funding with sales tax revenue, not RPTTF. It is also our understanding; the estimated sales tax allocation for this note is \$204,299. As a result, \$204,299 has been reclassified to 'Other' funds. Therefore, \$204,299 is not eligible for RPTTF funding at this time.

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 \$2,344,432 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	3,312,114
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 3,437,114
Total RPTTF requested for non-administrative obligations	3,312,114
<u>Reclassified Items</u>	
Item No. 23	(204,299)
Item No. 33	(480,000)
Total RPTTF approved for non-administrative obligations	2,627,815
Total RPTTF requested for administrative obligations	125,000
Total RPTTF for administrative obligations	125,000
Total RPTTF approved for obligations	2,752,815
ROPS III prior period adjustment	(408,383)
Total RPTTF approved for distribution	\$ 2,344,432

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%2013-14B%20Forms%20by%20Successor%20Agency/).

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

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Susan Paragas, Finance Director, City of Azusa
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office