DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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December 17, 2013

Ms. Elizabeth Hudson, Finance Director
City of Danville
510 La Gonda Way
Danville, CA 94526

Dear Ms. Hudson:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated October 28, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Danville Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 18, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on October 28, 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 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. 6 – Town of Danville Cooperation Agreement in the amount of $8,749,336 payable from Redevelopment Property Tax Trust Fund (RPTTF). Finance continues to deny this item. Records indicate the Danville Community Development Agency (CDA) was created in 1984. In 1987, the Town of Danville (Town) and the former CDA entered into a cooperative agreement for administrative assistance as well as advances for the funding of projects. This agreement required repayment; however, both parties recognized that payment would not occur for a few years and over a period of time when excess funds were available. As the redevelopment agency shutdown became a reality, the CDA and the Town re-entered into the Fourth Amendment and Restated Cooperative Agreement on May 3, 2011. This agreement contained a reimbursement schedule as well as penalties for non-payment. The repayment of this loan, in the amount of $8,063,814, was denied on the April 20, 2012 ROPS letter from Finance. With Oversight Board approval, the Agency and the Town re-entered into the cooperative agreement on May 1, 2012.

  The Agency contends the item is an enforceable obligation because the Agency was authorized to re-enter into the agreement by resolution of the duly appointed Oversight Board after making findings of benefit to taxing entities at their meeting on May 7, 2012, as permitted by Health and Safety Code sections 34171 (d) (2), 34178 (a), and 34180

(h) as amended by ABx1 26 and effective as of the date of the Oversight Board's action. While HSC section 34178 (a) and 34180 (h) authorizes successor agencies to re-enter into agreements, any agreement re-entered 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 sections 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 re-enter 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 sections 34177 and 34179 (h) to review any items on a 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.

The Agency received a Finding of Completion on May 24, 2013. As such, the Agency may place loan agreements between the former redevelopment agency and sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes pursuant to HSC section 34191.4 (b) (1). However, HSC section 34176 (e) (6) (B) specifies loan repayments shall not be made prior to the 2013-14 fiscal year. While ROPS 13-14B falls within fiscal year 2013-14, the repayment of the city loan is subject to the repayment formula outlined in HSC section 34191.4 (b) (2) (A).

HSC section 34191.4 (b) (2) (A) allows this repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and 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 this obligation. Therefore, the Agency may be able to request funding beginning with ROPS 14-15A.

In addition, per Finance's letter dated October 28, 2013, we continue to make the following adjustment to the Fund Balances form based upon information provided by the Agency. This adjustment was not contested by the Agency during the Meet and Confer. Although this adjustment has no effect on the amount of RPTTF the Agency receives, this adjustment will affect the Agency's fund balances for the funds sources involved.

- Adjustments were made to the Fund Balances form based upon information provided by the Agency during our review. The Agency was allowed to retain $374,965 in bond reserves during the Low and Moderate Income Housing Fund Due Diligence Review; however, the amount was omitted from the Fund Balances Form. The Agency agreed with this adjustment and will report bond reserve balances on future ROPS.

Pursuant to HSC Section 34186 (a), successor agencies were required to report the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved

in the table below includes the prior period adjustment that was self-reported by the Agency. 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. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the table below includes only the prior period adjustment that was self-reported by the Agency.

Except for the item denied in whole or in part as enforceable obligation or for the item that have been reclassified, 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 $543,883 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014		
Total RPTTF requested for non-administrative obligations		838,758
Total RPTTF requested for administrative obligations		105,125
Total RPTTF requested for obligations	**$**	**943,883**
Total RPTTF requested for non-administrative obligations		**838,758**
Denied Items		
Item No. 6		400,000
Total RPTTF approved for non-administrative obligations		**438,758**
Total RPTTF approved for administrative obligations		**105,125**
Total RPTTF approved for obligations		**543,883**
Self-Reported ROPS III prior period adjustment		-
Total RPTTF approved for distribution	**$**	**543,883**

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/.

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 Derk Symons, Analyst, at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Robert Ewing, City Attorney, City of Danville
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
California State Controller's Office