



December 17, 2013

Ms. Marcela Piedra, Director of Economic Development  
City of El Centro  
1249 Main Street  
El Centro, CA 92243

Dear Ms. Piedra:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 8, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of El Centro Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 27, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 8, 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 25, 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 Nos. 3, 4, and 5 – 2011 Bonds, Series A, B, and C totaling \$89,363,919. Finance continues to deny Item Nos. 3 and 4 and no longer denies Item No. 5 at this time. Finance initially denied these items as our review of the bond documentation provided by the Agency indicates the bonds were sold by the former Redevelopment Agency (RDA) to the City of El Centro (City). HSC section 34171 (d) (2) states that "enforceable obligation" does not include any agreements, contracts, or arrangements between the city...that created the [RDA] and the former [RDA]." The bond indentures for the 2011 Bonds, Series A and B, are agreements between the former RDA and the City that created the RDA and are not enforceable obligations. Therefore, repayments to the City as the bondholder for Item Nos. 3 and 4 are not enforceable obligations.

In relation to Item No. 5, the Agency contends that the 2011 Bonds, Series C, (2011 Series C bonds) constitute indebtedness to third-party investors and bondholders. The 2011 Series C bonds were issued by the former RDA and bought by the City that subsequently sold them to the El Centro Financing Authority (Authority). The Authority issued 2011 Revenue Bonds (Authority's 2011 bonds) in a public offering using the 2011 Series C bonds as security. While the 2011 Series C bonds were not, in fact, sold to third party investors and while the bond documents provided for the 2011 Series C bonds do not appear to have been issued to secure or repay the Authority's 2011 bonds,

Finance is approving this item, at this time. Due to the complexity of the financing structure, Finance will continue to review all bond documents during the ROPS 14-15A period to determine if the Agency is, in fact, responsible for securing payment of the debt service for the Authority's 2011 bonds. Finance notes the Agency, or any other parties, should not conclusively rely upon this limited six-month approval as approval for the debt service for the Agency's 2011 Series C bonds or the Authority's 2011 bonds.

- Our review of the Report of Fund Balances form noted that Agency had been expending bond proceeds without authorization from Finance, as described below:
  - The Agency reported a balance of \$8,898,804 for Bonds issued on or before December 31, 2010, on the Fund Balances Form. Our review noted that the Agency reported \$14,077,397 of unspent bond proceeds on their Other Funds and Accounts (OFA) Due Diligence Review (DDR) as of June 30, 2012. Furthermore, actual bond expenditures for the July through December 2012 period (ROPS II) as reported in the July through December 2013 ROPS form (ROPS 13-14A) indicated zero bond proceeds were spent.

During the initial review, Finance contacted the Agency regarding the discrepancy in the bond proceeds balance and received an explanation that there were expenditures of bond proceeds during the ROPS II period; however, the Agency did not list the items on the ROPS. Due to the expenditures, it appears that the balance of \$14,077,397 was drawn down to the reported balance of \$8,898,804. Finance denied the use of bond proceeds for all bond funded items for the January through June 2012 period (ROPS I) in a letter dated April 24, 2012, because there was no enforceable obligation requiring the expenditure of the bond proceeds. Since then, the Agency has not placed any bond funded items on subsequent ROPS and appears to have been spending bond proceeds without authorization from Finance. HSC section 34177 (a) (3) states that only those payments listed in the ROPS may be made by the successor agency from funds specified on the ROPS. The Agency is required to place all expenditures on the ROPS, including excess bond proceeds. Since the Agency received its Finding of Completion on April 26, 2013, the use of pre-2011 bond proceeds may be allowed in accordance to HSC section 34191.4 (c).

During the Meet and Confer process, the Agency provided the statements for the 2007 Series A and B and 2007 Series B (Taxable) bonds showing \$6,533,963 and \$2,369,124, respectively, in the accounts as of September 30, 2013. During the OFA DDR process, the Agency had provided statements for these same accounts as of December 31, 2011, showing \$10,017,245 and \$4,989,477, respectively. As a result, the Agency has disregarded the requirements and processes defined in statute and illegally incurred expenditures totaling \$3,483,282 and \$2,620,353, respectively, without Finance's authorization. Since Finance did not approve the use of bond proceeds on ROPS I, II, III, or 13-14A, the balances in these accounts should be the same as the balance as of December 31, 2011. As previously stated, since the Agency received its Finding of Completion, the use bond proceeds may be allowed in accordance to HSC section 34191.4 (c). The Agency should place all prior expenditures of bond proceeds on a subsequent ROPS for Finance's review and approval.

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 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 items denied in whole or in part as enforceable obligations or for the items 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 \$1,049,976 as summarized below:

<b>Approved RPTTF Distribution Amount For the period of January through June 2014</b>	
Total RPTTF requested for non-administrative obligations	2,062,985
Total RPTTF requested for administrative obligations	125,000
<b>Total RPTTF requested for obligations</b>	<b>\$ 2,187,985</b>
<b>Total RPTTF requested for non-administrative obligations</b>	<b>2,062,985</b>
<u>Denied Items</u>	
Item No. 3	(213,009)
Item No. 4	(925,000)
	<u>(1,138,009)</u>
<b>Total RPTTF approved for non-administrative obligations</b>	<b>924,976</b>
<b>Total RPTTF approved for administrative obligations</b>	<b>125,000</b>
<b>Total RPTTF approved for obligations</b>	<b>1,049,976</b>
Self-Reported ROPS III prior period adjustment	-
<b>Total RPTTF approved for distribution</b>	<b>\$ 1,049,976</b>

Pursuant to HSC section 34177 (I) (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 Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Assistant Program Budget Manager

cc: Mr. Ruben Duran, City Manager, City of El Centro  
Ms. Ann McDonald, Property Tax Manager, Imperial County  
California State Controller's Office