

December 17, 2013

Mr. Rene L. Mendez, City Manager
City of Gonzales
PO Box 647
Gonzales, CA 93926

Dear Mr. Mendez:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 14, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Gonzales 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 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 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 Nos. 3 and 4 – Reimbursement and Loan Agreements (Agreements) between the Agency and the City of Gonzales (City) totaling \$11,829,782. Finance continues to deny this item. The Agency received a Finding of Completion on June 14, 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 per HSC section 34191.4 (b) (1). While ROPS 13-14B falls within fiscal year 2013-14, the repayment of these items 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 for the repayment of these items beginning with ROPS 14-15A.

- Item No. 10 – Supplemental Educational Revenue Augmentation Fund Loan in the amount of \$597,734. Finance continues to deny this item. HSC section 34176 (e) (6) (B) specifies

loan or deferral repayments to the Low and Moderate Income Housing Fund (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 loans is subject to the repayment formula outlined in HSC section 34176 (e) (6) (B), as stated above. Therefore, the Agency may be able to request funding for the repayment of this item beginning with ROPS 14-15A.

- Item No. 16 – Debt Service Reserve Fund (DSRF) Replenishment in the amount of \$400,515. Finance no longer denies this item; however, the funding source is being reclassified to “Other” funds. Finance initially denied this item as the Agency did not demonstrate a need to hold reserves pursuant to HSC section 34171 (d) (1) (A).

During the Meet and Confer, the Agency stated that due to “cash flow issues”, the Agency will have insufficient funds to pay its debt service payments and will be forced to draw on its debt service reserves to make their debt service payments. Finance approved \$461,915 from the Redevelopment Property Tax Trust Fund (RPTTF) for debt service payments due during ROPS 13-14A and the Agency received \$481,739 in RPTTF for their ROPS 13-14A distribution. As such, the Agency received sufficient RPTTF to fund their debt service payments.

HSC section 34177 (a) (3) states that only those payments listed on the approved ROPS may be made from the funding source specified in the ROPS. Also, HSC section 34183 (a)(2) explicitly requires debt service payments to be made first, followed by revenue bonds (to the extent revenues are insufficient to cover the payments due), and all other obligations, if sufficient RPTTF funding remains. Additionally, HSC section 34171 (d)(1)(A) permits reserves to be held only when required by the bond indenture, or when the next property tax allocation will be insufficient to pay the next bond payment due in the following half of the fiscal year.

According to our records, the Agency has historically received sufficient tax increment to pay bond debt service obligations, DOF has approved funding from the RPTTF for these obligations, but the Agency has continually paid other obligations as well as administrative costs before paying their debt service. For example, in December 2012, the Agency claims to have drawn from debt service reserves in the amount of \$219,988 because they had insufficient funds to pay debt service; however, our records show that the Agency spent \$299,518 on non-debt service related obligations during the January through June 2012 (ROPS I) period and the July through December 2012 (ROPS II) period, which is in violation of HSC section 34183 (a) (2).

To the extent the Agency has not been funding approved enforceable obligations in the order required under HSC section 34183 (a) (2), the Agency is in violation of the law and should reverse those non-debt service transactions that were subordinated to the Agency's debt service payments. Once corrected, the Agency should return the funding to the Debt Service Reserve Fund.

As noted above, HSC section 34177 (a) (3) states that only those payments listed on the approved ROPS may be made from the funding source specified in the ROPS. HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. However, no such approval was presented to Finance, and as such, our records indicate that the Agency's reserve balances have not been depleted.

Again, to the extent funding was moved inappropriately out of the Debt Service Reserve Fund, the Agency should return the funds to the proper account.

Therefore, for all the reasons stated above, this item is not eligible for additional RPTTF funding.

In addition, per Finance's letter dated November 14, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Claimed administrative costs exceed the allowance by \$7,500. HSC section 34171 (b) limits the fiscal year 2013-14 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. The Monterey County Auditor-Controller's Office distributed \$132,500 for the July through December 2013 period, thus leaving a balance of \$117,500 available for the January through June 2014 period. Although \$125,000 is claimed for administrative cost, only \$117,500 is available pursuant to the cap. Therefore, \$7,500 of excess administrative cost is not allowed.

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 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 \$447,038 as summarized below:

| Approved RPTTF Distribution Amount For the period of January through June 2014 | |
|--|---------------------|
| Total RPTTF requested for non-administrative obligations | 1,061,010 |
| Total RPTTF requested for administrative obligations | 125,000 |
| Total RPTTF requested for obligations | \$ 1,186,010 |
| Total RPTTF requested for non-administrative obligations | 1,061,010 |
| <u>Reclassified as Other</u> | |
| Item No. 16 | (400,515) |
| <u>Denied Items</u> | |
| Item No. 3 | (151,410) |
| Item No. 4 | (60,000) |
| Item No. 10 | (119,547) |
| | (330,957) |
| Total RPTTF approved for non-administrative obligations | 329,538 |
| Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below) | 117,500 |
| Total RPTTF approved for obligations | 447,038 |
| ROPS III prior period adjustment | |
| Total RPTTF approved for distribution | \$ 447,038 |
| Administrative Cost Cap Calculation | |
| Total RPTTF for 13-14A (July through December 2013) | 624,615 |
| Total RPTTF for 13-14B (January through June 2014) | 329,538 |
| Total RPTTF for fiscal year 2013-14 | 954,153 |
| Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or \$250,000) | 250,000 |
| Administrative allowance for 13-14A (July through December 2013) | 132,500 |
| Allowable RPTTF distribution for administrative cost for ROPS 13-14B | 117,500 |

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%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 Suess, Dispute Resolution Supervisor, or Derk Symons, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Thomas Truskowski, Community Development Director, City of Gonzales
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office