



December 17, 2013

Ms. Laura Gutierrez, Finance Director
City of Imperial
420 South Imperial Avenue
Imperial, CA 92251

Dear Ms. Gutierrez:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 22, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Imperial Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on October 10, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 22, 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 6, 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. 4 – Redevelopment Projects in the amount of \$1,129,463 in pre-2011 bond funds. Finance no longer denies this item. According to a public facilities construction agreement between the County of Imperial (County) and the redevelopment agency (RDA) amended on May 17, 2011, the County was required to execute contracts for the seven remaining projects by June 30, 2011. A County letter was provided to show the County was submitting the contracts and purchase orders executed for the remaining projects to the RDA. We note, the payee listed on ROPS 13-14B is the City of Imperial, not the County. During the meet and confer, the Agency claimed this was due to a misunderstanding on the process for using bond proceeds. Finance notes that the actual payee should be the County of Imperial and will make the necessary changes.
- Item No. 6 – North Imperial Avenue Senior Apartments totaling \$1,300,000 in pre 2011 bond proceed funding. Finance continues to deny this item. The Agency is requesting to use proceeds from bonds issued to fund low to moderate income projects. However, there were no contracts in place prior to June 27, 2011 or evidence of an enforceable obligation that would allow the Agency to utilize bond proceeds. Therefore, the item is not eligible for housing bond funding at this time.

Finance notes the housing successor can follow the process set forth in HSC section 34176 (g), which authorizes the housing successor to designate the use of and commit bond proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the bond covenants. The proceeds must have been derived from bonds that were issued for the purposes of affordable housing and issued prior to January 1, 2011. To initiate this process, the housing successor is required to provide notice to the successor agency of any designations of use or commitments of funds that it wishes to make at least 20 days before the deadline for submission of the ROPS to the Oversight Board. These commitments and designations will not be considered valid or binding until they are included in and approved and valid ROPS. The Agency did not provide any supporting documentation of notice given to the Agency of designations of the use or commitments of funds that it wished to make at least 20 days before the deadline for submission of the ROPS to the Oversight Board. Therefore, Finance cannot approve the request to use bond funding at this time.

However, successor agencies will be eligible to expend bonds issued prior to January 1, 2011, once a finding of completion is received per 34191.4 (c). Those obligations should be reported on a subsequent ROPS.

- Item No. 8 – Housing Bond Fund projects totaling \$1,609,000 in bond proceeds funding. Based on the description on ROPS 13-14B, the Agency is requesting to use bonds issued to fund low to moderate income housing projects. Finance no longer denies this item. Our review indicates that the former RDA entered into a Development and Disposition Agreement (DDA) with R.D. Brown Company, Inc. on June 15, 2011. We note that the payee listed on ROPS 13-14B is the City of Imperial, not the County. During the meet and confer, the Agency claimed this was simply an oversight. Finance notes that the actual payee should be the County of Imperial.
- Item No. 5, 7 and 9 – Project Management Costs totaling \$323,077. Finance no longer denies this item. Item No. 5 is related to Item No. 4, and Item Nos. 7 and 9 are related to Item No 8, as previously discussed. Because Finance has determined Item Nos. 4 and 8 are enforceable obligations of the Agency, entered into prior to June 27, 2011, the associated project management costs are also enforceable obligations. Therefore, the Agency will be eligible to receive RPTTF for this item.

Finance notes that for Item Nos. 7 and 9 in the total amount of \$232,720, to the extent bond proceeds are available to fund these costs, the Agency should utilize those funds prior to using RPTTF. Pursuant to section 34177 (l) (1) requires agencies to identify the use of all other funding sources prior to requesting RPTTF. Finance will follow-up with the Agency to determine the funding source used to fund the costs associated with these items.

- Item No. 10 – Imperial Truss and Hardware in the amount of \$30,000. Finance no longer denies this item. Our review indicates that the RDA entered into an agreement with Raul and Maria Parra (Grantee) on June 16, 2011 to grant an amount not to exceed \$30,000. The grant was awarded for the sole purpose of installing landscape, signage, parking lot and other related improvements to the Grantee's property. We note that the payee listed on ROPS 13-14B is the City of Imperial, not the County. During the meet and confer, the Agency claimed this was simply an oversight. Finance notes that the actual payee should be the County of Imperial and will make the necessary changes.

In addition, per Finance's letter dated November 22, 2013, we continue to deny the following item not contested by the Agency during the Meet and Confer:

- Item No. 1 - 2005 Tax Allocation Bond (TAB) payment in the amount of \$548,925. The Agency requested \$548,925 of Redevelopment Property Tax Trust Funds (RPTTF) funding to pay June 1, 2014 debt service interest payments for the 2005 and 2007 TABs. The Agency incorrectly listed the payment for both bonds as Item No. 1. Our review of the debt service schedule obtained from the 2007 Official Statement noted that a total of \$523,777 is due for the ROPS 13-14B period which includes \$174,519 for the 2005 TAB and \$349,258 for the 2007 TAB. Although this item is considered an enforceable obligation, the Agency is requesting RPTTF in excess of the amount needed for the ROPS 13-14B period. Therefore, the requested RPTTF funding is adjusted by \$25,148 to \$523,777.

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, 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 \$1,001,854 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	902,002
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 1,027,002
Total RPTTF requested for non-administrative obligations	902,002
<u>Denied Items</u>	
Item No. 1	(25,148)
	(25,148)
Total RPTTF approved for non-administrative obligations	876,854
Total RPTTF approved for administrative obligations	125,000
Total RPTTF approved for obligations	1,001,854
Total ROPS III PPA	-
Total RPTTF approved for distribution	\$ 1,001,854

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

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. George Galvan, Planning & Development Director, City of Imperial
Ms. Ann McDonald, Property Tax Manager, Imperial County
California State Controller's Office