DEPARTMENT OF FINANCE

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December 17, 2013

Mr. Donald L. Parker, Finance Director
City of Montclair
5111 Benito Street
Montclair, CA 91763

Dear Mr. Parker:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated October 23, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Montclair Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 12, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on October 23, 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 October 30, 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. 1 through 7 – Tax Allocation and Tax Refunding Bonds debt service totaling $2,573,063. Finance no longer denies these items. The Agency requested Redevelopment Property Tax Trust Fund (RPTTF) funding for debt service payments due for both the ROPS 13-14B and ROPS 14-15A (July through December 2014) periods. HSC section 34171 (d) (1) (A) allows agencies to hold a reserve for debt service payments when required by the bond indenture, or when the next property tax allocation will be insufficient to pay all obligations due for the next payment due in the following half of the calendar year. Finance initially denied these items as based on our initial review of the bond indentures, we did not note any requirement to create such a reserve. Additionally, based on the history of the Agency's RPTTF distribution, it is our understanding that the next property tax allocation will be sufficient to pay debt service due for these bonds during the ROPS 14-15A period. Therefore, the debt service payments requested for the following bonds were adjusted by the following amounts:

    - Item No. 1 – 1997 Taxable Tax Allocation Bonds in the amount of $22,560
    - Item No. 2 – 2007A Tax Allocation Refunding Bonds in the amount of $1,067,563
    - Item No. 3 – 2007B Taxable Tax Allocation Bonds in the amount of $217,898
    - Item No. 4 – 2004 Tax Allocation Bonds in the amount of $263,000
    - Item No. 5 – 2001 Tax Allocation Bonds in the amount of $545,355
    - Item No. 6 – 2006A Tax Allocation Bonds in the amount of $378,787
    - Item No. 7 – 2006B Tax Allocation Bonds in the amount of $77,900

Based upon further review during the Meet and Confer process, the bond indentures for the bonds listed above do require all tax revenues to be deposited until the full year's bond debt service is covered. Therefore, Finance no longer denies these items.

Finance notes that pursuant to HSC section 34183 (a) (2) (A), debt service payments have first priority for payment from distributed RPTTF funding. As such, the additional $2,573,063 requested to be held in reserve should be transferred upon receipt to the bond trustee(s) along with the amounts approved for the other ROPS 13-14B debt service payments prior to making any other payments on approved ROPS items. Any requests to fund these items again in the ROPS 14-15A period will be denied unless insufficient RPTTF is received to satisfy both the debt service payments due during the ROPS 13-14B period and the reserve amounts requested in ROPS 13-14B for the ROPS 14-15A debt service payments.

- Item No. 43 – Administrative Cost Reimbursement Agreement totaling $5,750,000. The Agency's claimed administrative costs exceed the administrative cost allowance for ROPS 13-14B by $211,535 ($129,196 payable from Reserve funding, and $82,339 payable from RPTTF funding). HSC section 34171 (b) limits fiscal year 2013-14 administrative expenses to three percent of property tax allocated to the successor agency or $250,000, whichever is greater. As a result, the Agency is eligible for $250,000 in administrative expenses for the fiscal year 2013-14. The San Bernardino County Auditor Controller's Office distributed $250,000 for administrative costs to the Agency for the July through December 2013 period; therefore, Item 43 exceeds the administrative cost allowance and is not permitted.

  The Agency claims $129,196 of the amount listed for administrative expenses are reserve funds and do not count towards the administrative cost allowance. Our review indicates that the Agency was permitted to retain $3,026,399 for the July through December 2013 (ROPS II) period. The funds were intended for use on enforceable obligations approved by Finance for those periods. The Agency claims the full amount allowed for retention through the Other Funds and Accounts (OFA) Due Diligence Review (DDR) was not used as intended; therefore, the Agency believes these funds should be available as other funds for administrative costs. However, to the extent the Agency overestimated the actual demand on the funds during the allowed retention period, it should use those excess funds on enforceable obligations prior to requesting RPTTF pursuant to HSC section 34177 (l).

  Additionally, the Agency contends that the $86,319 of these costs are associated with staff costs to prepare the Long Range Property Management Plan (LRPMP) and bond disclosure costs. However, the administrative budget provided by the Agency does not identify any such costs. To the extent the Agency plans on using in-house staff to prepare the LRPMP, those costs should be listed on a separate line item on a subsequent ROPS for Finance's review. Furthermore, Finance notes that the bond disclosure costs were listed as separate items on the ROPS, specifically Item Nos. 14 and 15, and are not part of the proposed costs associated with Item No. 43.

  Our review indicates the Agency received all approved RPTTF funding for the ROPS 13-14A period; therefore, it is improper for the Agency to request additional funds for administrative costs, as the allowance has been fully funded. Therefore, Finance has determined that the reclassifications previously made for unspent OFA DDR balances previously allowed for retention are appropriate and no changes are being made to our original determination.

- During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that are required to be used prior to requesting RPTTF. Pursuant to HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. The Agency provided financial records that displayed an available reserve balance totaling $129,196.

  This reserve stems from funds allowed by Finance to fulfill enforceable obligations through the OFA DDR; however, it is our understanding these reserves are no longer necessary for those specified enforceable obligations. Although the Agency contends they should be allowed to use these reserve funds to cover administrative costs, excess administrative costs are unallowable per HSC section 34171 (b) as discussed above, and the following items have priorities per the payment priority provisions of HSC section 34183. Therefore, funding sources for the following items continue to be reclassified to reserve funding:

  - Item No. 6 – 2006 Tax Allocation Bonds Series A in the amount of $91,196.
  - Item No. 10 – Contract for Legal Services in the amount of $15,000
  - Item No. 12 – Contract for Bond Trustee Services in the amount of $5,000.
  - Item No. 14 – Contract for Bond Services in the amount of $3,000.
  - Item No. 15 – Contract for Bond Services in the amount of $12,000.
  - Item No. 23 – Contract for Professional Services in the amount of $3,000.

In addition, per Finance's letter dated October 23, 2013, we continue to deny the following item not contested by the Agency during the Meet and Confer:

- Item No. 44 – Edward Kotkin legal services contract in the amount of $5,000. This contract was denied by Finance in our letter dated September 30, 2013 as an inclusion to Oversight Board Resolution No. 13-06 review; the contract did not specify the time period for performance, and did not contain all of the elements required of a valid contract. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.

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 $3,689,928 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014		
Total RPTTF requested for non-administrative obligations		3,906,463
Total RPTTF requested for administrative obligations		-
Total RPTTF requested for obligations	**$**	**3,906,463**
Total RPTTF requested for non-administrative obligations		**3,906,463**
Denied Items		
Item No. 44		5,000
Reclassified Items From RPTTF to Admin		
Item No. 43		82,339
Total RPTTF for non-administrative obligations		**3,819,124**
Reclassified Items - From RPTTF to Reserves		
Item No. 6		91,196
Item No. 10		15,000
Item No. 12		5,000
Item No. 14		3,000
Item No. 15		12,000
Item No. 23		3,000
		129,196
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)		**-**
Total RPTTF approved for obligations		**3,689,928**
ROPS III prior period adjustment		-
Total RPTTF approved for distribution	**$**	**3,689,928**
Administrative Cost Cap Calculation		
Total RPTTF for 13-14A (July through December 2013)		2,685,783
Total RPTTF for 13-14B (January through June 2014)		3,819,124
Less approved unfunded obligations from prior periods		-
Total RPTTF for fiscal year 2013-14		**6,504,907**
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)		250,000
Allowable RPTTF distribution for administrative cost for ROPS 13-14B		**-**

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 Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Marilyn Staats, Deputy City Manager, City of Montclair
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office