DEPARTMENT OF FINANCE

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December 17, 2013

Ms. Dena Fuentes, Director of Community Development and Housing
San Bernardino County
385 North Arrowhead Avenue
San Bernardino, CA 92415-0043

Dear Ms. Fuentes:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 12, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the San Bernardino County Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 30, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 12, 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. 4, 5, 6 – 2010 Series A & B Tax Allocation Bond Debt Service Reserves totaling $817,500. Finance no longer denies these items. The Agency requested funding for debt service payments due July through December 2014 (ROPS 14-15A). HSC section 34171 (d) (1)(A) allows agencies to hold a reserve for debt service payment when required by the bond indenture, or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due. Our review indicates that the Redevelopment Property Tax Trust Funds (RPTTF) distributions during the July through December 2012 (ROPS II) and January through June 2013 (ROPS III) periods were not sufficient to satisfy all approved enforceable obligations for the respective periods. Therefore, the Agency will be permitted to receive RPTTF during the ROPS 13-14B period to create a reserve for the ROPS 14-15A debt service payments.

- Item Nos. 42 and 44 – Loan Agreements between the County of San Bernardino and the Agency totaling $9,000,000. Finance continues to deny these items at this time. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the entity that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. These loans were issued after the first two years of the former

RDA's creation and are not associated with the issuance of debt. Therefore, these items are not enforceable obligations and are not eligible for Reserve funding on this ROPS.

Upon receiving a Finding of Completion from Finance and after the oversight board makes a finding the loan was for legitimate redevelopment purposes, HSC section 34191.4 (b) may cause these items to be enforceable in the future ROPS periods.

- Item No. 9 – Contract for Consulting Services totaling $45,000. Finance no longer reclassifies this item as an administrative cost; however, the Agency will only be permitted to receive $1,400 in RPTTF for this item. While the Agency claims this executed contract is for required bond disclosures, a contract was not provided. However, the Agency did provide an email and invoice demonstrating that total bond disclosure fees for 2013 was $1,400, $700 per bond; therefore, we have determine this is adequate support for a reasonable estimate of costs anticipated for the 2014 fiscal year.

- Item No. 16 – Salaries and Benefits Direct totaling $114,800. Finance continues to reclassify this item. Documentation provided by the Agency does not tie these costs are associated with work on specific project implementation activities related to enforceable obligations listed on the ROPS in accordance with HSC section 34171 (b). In addition, while HSC section 34171 (b) allows Agencies to make administrative cost payments from sources other than property tax, the source of the reserve funds requested is unclear since the Agency was required to remit all unencumbered balance in accordance with the Other Funds and Accounts Due Diligence Review letter dated May 16, 2013.

  We note, to the extent the Agency does have unencumbered reserve funds, these should be applied to payment of enforceable obligations in accordance with HSC section 34177 (l) (1) (E), which states that 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.

- Item Nos. 18 and 20 – Legal Consultant Contract with Goldfarb Lipman and County Counsel costs totaling $35,000. Finance continues to reclassify these items as administrative costs. The Agency contends these items are enforceable obligations because the services are required for implementation of specific projects that are enforceable obligations and are not administrative in nature. However, the legal services are not related to litigation expenses and the Agency has not provided support that the services are required by any particular enforceable obligation. However, while we acknowledge the Agency is in current litigation, Item No. 11 was approved for RPTTF funding for litigation expenses.

- The Agency's claimed administrative costs exceed the allowance by $202,000. 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. The San Bernardino County Auditor Controller's Office distributed $250,000 of administrative costs for the July through December 2013 period, thus leaving no funds available for the January through June 2014 period. Although the Agency did not claim any administrative cost, Item Nos. 16, 18, and 20 totaling $202,000 are considered

administrative expenses and should be counted toward the cap. Therefore, $202,000 of excess administrative cost is not allowed.

In addition, per Finance's letter dated November 12, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item Nos. 32, 33, and 50 – Funding Shortfall for Various Obligations totaling $312,813 for the period January through June 2013 (ROPS III). Although the San Bernardino County Auditor-Controller (CAC) distributed less RPTTF than the Finance approved amount for ROPS III, during the Other Funds and Accounts (OFA) Due Diligence Review (DDR) review, Finance allowed the Agency to retain $1,351,946 for approved obligations not funded by the ROPS III distribution, as stated in the letter dated May 16, 2013. Because the Agency was allowed to retain funds for these obligations, they are no longer unfunded, and are not eligible for RPTTF funding.

- Item Nos. 38 through 40 – Bond funded projects in the Cedar Glen and San Sevaine Project areas totaling $19,193,000 are not enforceable obligations at this time. HSC section 34163 (b) prohibits a redevelopment agency (RDA) from entering into a contract with any entity after June 27, 2011. Pursuant to HSC section 34191.4 (c), your request to use bond proceeds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance.

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14B form the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. 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. The amount of RPTTF approved in the below table includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

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 $3,519,619 as summarized on the following page:

Approved RPTTF Distribution Amount For the period of January through June 2014		
Total RPTTF requested for non-administrative obligations		4,038,032
Total RPTTF requested for administrative obligations		-
Total RPTTF requested for obligations	**$**	**4,038,032**
Total RPTTF requested for non-administrative obligations		**4,038,032**
Denied Items		
Item No. 9		(3,600)
Item No. 31		(139,720)
Item No. 32		(60,000)
Item No. 50		(113,093)
		(316,413)
Reclassified Items		
Item No. 16		(167,000)
Item No. 18		(5,000)
Item No. 20		(30,000)
		(202,000)
Total RPTTF approved for non-administrative obligations		**3,519,619**
Total RPTTF requested for administrative obligations		**-**
Reclassified Items		
Item No. 9		5,000
Item No. 16		167,000
Item No. 18		5,000
Item No. 20		30,000
Total RPTTF for administrative obligations		**207,000**
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)		**-**
ROPS III prior period adjustment (PPA)		-
Total RPTTF approved for distribution	**$**	**3,519,619**

Administrative Cost Cap Calculation	
Total RPTTF for 13-14A (July through December 2013)	3,812,681
Total RPTTF for 13-14B (January through June 2014)	2,697,719
Less approved unfunded obligations from prior periods	-
Total RPTTF for fiscal year 2013-14	**6,510,400**
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	**-**

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.

In addition, adjustments were made to the Fund Balances form based upon information provided by the Agency during our review. 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. The following adjustment was made:

- The Agency's financial records show $6,932,775 in bond reserves; 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.

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: Mr. Gary Hallen, Deputy Director of Community Development and Housing, San Bernardino County
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office