DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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December 17, 2013

Mr. Allen Parker, City Manager
San Bernardino City
300 North D Street, 6th Floor
San Bernardino, CA 94218

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 November 15, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the San Bernardino City 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 15, 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 4, 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. 10, 12, and 13 – Various Recovery and Revenue Bonds totaling $15,608,589. The Agency requests funding in the amounts of $454,100, $44,225, and $40,360, respectively, for the ROPS 13-14B period. However, based on documentation provided during the initial review, Finance had denied the items as the Agency is not required to fund the full debt service through tax increment since other revenues are pledged towards the payments. The Agency had provided US Bank account summary schedules as follows:

    - Item No. 10 – The Agency is receiving a "Federal Direct Payment" subsidy as other revenue pledged. Based on the account summary schedule, as of October 16, 2013, the Reserve Fund account balance is $731,999. The Agency contends $688,323 is the required balance for the Reserve Fund, leaving $43,676 available to apply as a credit towards the $454,100 amount requested. During the Meet and Confer process, the Agency provided the monthly statements for the Interest Account and Reserve Fund as of November 30, 2013 showing a balance of $43,711 and $688,323, respectively. Since $688,323 is the required debt reserve, $43,711 is available to apply towards the payment. Therefore, $43,711 is being reclassified to "Other" funds and $410,389 will be paid from the Redevelopment Property Tax Trust Fund (RPTTF).

- Item Nos. 12 and 13 – Other revenue is received monthly from third parties. The Agency contends other revenues received are required to fund other obligations related to the projects and are not available to fund debt service payments. However, pursuant to Section 5.02 of the Bond Indenture, on the 15th of each month, a portion of gross revenues deposited in the Revenue Fund, in order of priority, should be applied towards annual trustees fees, then applied to fund the taxes, assessments, and insurance for the projects, then applied to fund interest and principal due on the next succeeding due date. Further, January 2013 invoices for interest due showed that the amount paid by the Agency was reduced by cash on hand credits of $5,693 and $23,291, respectively. During the Meet and Confer process, the Agency failed to provide additional documents to verify the balances in the Interest Funds for each of the bonds. As such, Finance will use the unverified account summary schedules provided during the initial review showing balances of $2,177 and $49,390, respectively. Therefore, for Item Nos. 12 and 13, Finance reclassifies $2,177 and $40,360 to "Other" funds and approves $42,048 and $0 to be paid from the RPTTF, respectively.

Finance does not consider the US Bank account summary schedules provided as sufficient supporting documentation. However, since other revenue is available for Item No. 10 and appears to be available for Item Nos. 12 and 13, the funding source is being changed from "RPTTF" to "Other Funds" in the amounts of $43,711, $2,177, and $40,360, respectively, reflecting the proper use of other revenues. Therefore, these line items are eligible for $410,389, $42,048, and $0 in RPTTF funding, respectively.

- Item No. 82 – Debt Service Reserve Fund (DSRF) Replenishment in the amount of $5,085,237. Finance no longer denies this item; however, the funding source is being reclassified to "Other" funds. The amount requested represents total funding needed to replenish the DSRF to the required balances for Item Nos. 3, 4, 6 through 11, and 28. During the July through December 2013 period (ROPS 13-14A) Finance approved $6,408,144 in RPTTF funding for this item. Finance notes that the Agency's total DSRF amount outstanding provided during ROPS 13-14B has now increased to $6,640,033. The Agency contends it did not receive sufficient RPTTF funding during ROPS 13-14A and claims that only $1,554,796 in RPTTF funding was available to fund the DSRF amount. The remaining $5,085,237 ($6,640,033-$1,554,796) is being requested on ROPS 13-14B.

  Finance authorized $17,569,239 in RPTTF funds for ROPS 13-14A enforceable obligations, and applied a ROPS II Prior Period Adjustment (PPA) in the amount of $5,876,914, resulting in $11,692,325 in RPTTF funds approved for distribution, which was fully distributed by the San Bernardino County Auditor Controller. The Agency also received $510,467 in RPTTF funds for administrative costs. Consequently, sufficient RPTTF funding was available for the Agency to replenish the required reserves for the ROPS 13-14A period, including the funding that is available from the PPA of $5,876,914.

  The Agency contends that all of the ROPS II PPA had actually been spent and that it is impossible to recover such funds. The Agency also continues to contend that given the Agency's dire fiscal condition, the Agency has been required to "triage" the use of its RPTTF. However, the items on which the funds were spent were not approved by Finance; therefore, the funds should be available for expenditure.

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. Therefore, to the extent the Agency has not been funding approved enforceable obligations in this order, the Agency is in violation of the law. As such, the Agency should reverse those non-debt service transactions that were either not approved by Finance or subordinated to the Agency's debt service payments. Once corrected, the Agency should return the funding to each DSRF.

Based on a review of the prior period adjustment form for the ROPS II period, the Agency reported expending "Other" funds (i.e., funds from each DSRF) to make the debt service payments instead of RPTTF funds as approved by Finance. However, 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, the Agency's reserve balances should not have been depleted. Again, to the extent funding was moved inappropriately out of each DSRF, the Agency should return the funds to the proper accounts.

Further, Finance requested copies of bond fiscal statements as of June 30, 2013, for each affected bond's DSRF account to confirm the ending balances and to verify that each DSRF account was underfunded. The Agency provided a DSRF summary schedule in Excel and PDF format prepared by US Bank. Finance does not consider the summary schedules as sufficient supporting documentation. Therefore, for all the reasons stated above, this item is not eligible for additional RPTTF funding since sufficient balances were available from the ROPS 13-14A distribution to fully fund each DSRF and no funds should have been drawn from each DSRF in the first place. As such, the funding source is being reclassified to "Other" funds.

- Item No. 85 – Past Under-Paid Pass Thru Payments in the amount of $2,644,578. Finance no longer denies this item. According to the Agency, the San Bernardino Municipal Water District (District) has determined that the Agency owes the District past due pass thru payments for fiscal years 2007-08 through 2011-12. The summary letter provided by the District shows the amount owed to the District. However, Finance initially denied this item as HSC section 34171 (d) (1) (E) defines an enforceable obligation as a legally binding and enforceable agreement or contract and an agreement had not been established between the Agency and the District, specifying the responsibilities of each party, total compensation amount, and payment terms. During the Meet and Confer process, the District provided additional documents from Rosenow Spevacek Group, Inc., showing how the summary of amounts owed was determined, which included the 1988 pass through agreement between the District and the former redevelopment agency (RDA), an explanation of how the original methodology used to calculate the statutory pass through amounts was incorrect, the corrected methodology used to determine the actual statutory pass through amounts owed, and the actual

payments already received by the District. Therefore, this item is an enforceable obligation and is eligible for RPTTF funding.

- Item No. 87 – Carousel Mall Past Due Property Tax totaling $869,691. Finance continues to deny this item. The amount consists of past due property taxes for nine parcels. The Agency acquired the property through a Purchase Money Note dated May 3, 2010, when the former owner defaulted. Documentation was provided for each parcel's past due amounts owed for property tax years 2009, 2010, and 2012. Finance initially denied this item as the title owners of the properties during these tax years are third parties; therefore, the Agency should pursue collection of amounts due from the previous owners. Additionally, governmental property is exempt from property taxes. Based upon further review of the County of San Bernardino Treasurer-Tax Collector's website during the Meet and Confer process, it was determined that the Agency is not the current owner of the properties. The current owner for all nine parcels is the Carousel Mall LLC, not the Agency. All of these properties were inappropriately transferred to the San Bernardino Economic Development Corporation (SBEDC) in March 2011, which then transferred the properties to Carousel Mall LLC in December 2011. If and when the properties are transferred back to the Agency, the past due property taxes for tax years 2009 and 2010 may be obligations of the Agency; however, the past due property taxes for tax year 2012 should remain the obligation of the Carousel Mall LLC since these amounts would never have been incurred had the former RDA not transferred the properties. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item Nos. 88 and 90 to 93 – Liabilities related to former RDA properties, totaling $4,161,000, transferred to the SBEDC. Finance continues to deny these items. During the California State Controller Office's (Controller) Asset Transfer Review, the Controller ordered the return of several properties formerly owned by the Agency. The Agency contends the Controller's return order also includes any outstanding related liabilities related to those assets; therefore, those liabilities are now obligations of the Agency. However, Finance denied these items as it was our understanding these liabilities were incurred or created during the time the properties were owned and operated by the SBEDC, and any contracts or agreements signed were executed between the SBEDC and various third parties; the former RDA was not a party to the contracts. Therefore, the following line items are not enforceable obligations and not eligible for RPTTF funding as specified below:

    - Item No. 88 – ACAA Limited Partnership (ACAA) Purchase Money Note totaling $1,900,000. The promissory note, dated May 19, 2011, is between ACAA and SBEDC, the former RDA is not a party to the contract. The Agency contends the $1,900,000 principal amount due June 1, 2012, was not paid and provided a May 22, 2013, default letter from ACAA, which was addressed to SBEDC, not the Agency. During the Meet and Confer process, the Agency stated that the funding source should be "Other" funds, not the RPTTF. Finance acknowledges the request to change funding sources; however, the payment of the promissory note is still the obligation of SBEDC, not the Agency. Therefore, this item is not an enforceable obligation and is not eligible for "Other" funds or RPTTF funding.

    - Item Nos. 90 to 93 – Discounted Settlement of Lawsuits to foreclose mechanics liens against former RDA properties totaling $2,261,000. According to documentation provided, these liens are tied to properties that the former RDA

transferred to SBEDC during March 2011. The project contracts were executed between SBEDC and the contractors, and project work was completed while SBEDC held title to the properties. The liens were filed because SBEDC stopped payments to the contractors. Since SBEDC, not the former RDA or the Agency, is the noted party to the contracts, SBEDC is financially obligated to pay for the contracted work. Therefore, these items are not enforceable obligations and are not eligible for "Other" funds.

- The Agency's claimed administrative costs exceed the allowance by $219,174. 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 $880,901 in administrative expenses. The San Bernardino County Auditor-Controller's Office distributed $510,467 in administrative costs for the July through December 2013 period, thus leaving a balance of $370,434 available for the January through June 2013 period. Although $572,997 is requested for administrative cost, Item No. 89 – CAC Underpayment of ROPS 13-14A Administrative Costs in the amount of $16,610 is considered an administrative expense and has been reclassified. Therefore, the Agency is approved for $370,434 in administrative costs, and the excess $219,174 ($589,607-$370,434) 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 funding 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 initially approved in the table below included only the prior period adjustment that was self-reported by the Agency in the amount of $2,142,163.

  During the Meet and Confer process, the Agency stated that the formula included within the ROPS 13-14B form provided by Finance did not allow for the proper reporting of circumstances like the Agency's. As such, Finance allowed the Agency to recomplete and resubmit the form with their corrected amounts. The resubmitted form showed a prior period adjustment of $0; however, based on further review of the amounts included, the prior period adjustment should be $962,503 ($944,503 + $18,000), as discussed below.

  Originally, the Agency did not include any amounts in the "Available RPTTF" column, even though the amount authorized by Finance was not the amount available from the CAC's distribution. This error did, in fact, overstate the original prior period adjustment reported. In our review of the resubmitted form provided during the Meet and Confer process, Finance determined that the Agency had included the actual expended amount in the "Available RPTTF" column, deleted the formula in the "Net Lesser of Authorized/Available" column, and calculated the difference between the "Actual" column and the "Available" column to allow for the over expenditure of line items. To correct for these inappropriate changes made to Finance's form, Finance has corrected the amounts in the "Available RPTTF" column to total the CAC distribution of $12,068,863 without exceeding any of the approved amounts and re-entered the formulas to calculate

the "Net Lesser of Authorized/Available" and the difference of "Actual" and "Net Lesser of Authorized/Available" to disallow expenditures above Finance's approved amounts.

Specifically, the over expenditures summarized in the table below were disallowed.

Item No.	Description	Authorized	Actual	Disallowed
2	1997A Bond	$ 22,500	$ 43,656	$ 21,156
9	2005B TAB	430,887	431,106	219
15	CMB-E $10,000,000	261,600	262,500	900
26	Woolworth Bldg	506,637	517,053	10,416
33	Litigation – Carousel Mall (Placo)	40,000	107,119	67,119
38	Long Term Property Maintenance	102,000	946,693	844,693
	Total	**$ 1,363,624**	**$ 2,308,127**	**$ 944,503**

To the extent the Agency believes any of these over expenditures were required for enforceable obligations, they should list the item(s) on a subsequent ROPS for Finance's review and approval.

The actual allowed expenditures totals $11,106,360 ($11,668,640 - $944,503 + $382,223) and the CAC had distributed $12,068,863, which results in an additional $18,000 not expended on allowed items or within allowed amounts. Therefore, Finance will adjust the prior period adjustment from $2,142,163 to $962,503.

- During the Meet and Confer process, the Agency requested Finance to increase the amounts requested from the RPTTF for Item Nos. 21, 28, and 38 for expenditures incurred during the ROPS II period, but not approved by Finance.

    - Item No. 21 – Carousel Mall Note in the amount of $330,000. While the ROPS 13-14B has an Item No. 21 listed, it is listed as "Intentionally Left Blank" with "None" as the payee. Therefore, Finance cannot review the amount reported as expended to determine if it is related to an enforceable obligation since there is no associated line item on the ROPS 13-14B. To the extent the Agency believes this payment was for an enforceable obligation, the Agency should list the item on a subsequent ROPS for Finance's review and approval.

    - Item No. 28 – 2006 Tax Allocation Bond Debt Service in the amount of $651,996. The Agency provided the Debt Service Invoice and the wire transfer for this item from October 2012 in the amount of $651,996. Finance had determined that Item No. 28 is an enforceable obligation during the initial review. Therefore, Finance will increase the amount requested for Item No. 28 on ROPS 13-14B in the amount of $651,996.

    - Item No. 38 – Property Maintenance in the amount of $711,485. The Agency provided an Excel spreadsheet detailing the various expenditures incurred during the ROPS II period that the Agency classified as maintenance costs totaling $578,826. However, no information was provided indicating how these costs are associated with Agency-owned properties. Additionally, the Agency added a line item in the spreadsheet in the amount of $213,060 as property maintenance

related payroll without providing supporting documents to show how the costs were allocated to the Agency, what type of work was performed, and how these costs are associated with Agency-owned properties.

Finance also notes that many of the expenditures identified in the Excel spreadsheet do not appear to be costs of maintaining assets prior to disposition. For example, the items on the spreadsheet have descriptions or vendors such as Aztec Uniform Towel Rental, California Computer Options, Reynolds of San Bernardino – Installment Note and Interest, Muzak, Sweet Dreams Realty, Yellow Transportation, Southern California Edison, Sparklets Drinking Water, Verizon, USA Mobility, Konica Minolta, Wells Fargo, and Toshiba Finance Services that appear to be for general administrative costs, not property maintenance, and should be included as part of the administrative cost allowance. Therefore, Finance is denying the Agency's request to increase Item No. 38 on ROPS 13-14B.

However, to the extent the Agency believes some of the expenditures identified are enforceable obligations associated with maintaining assets prior to disposition, the Agency should list those costs on a subsequent ROPS for Finance's review and approval. If such costs are identified and listed on the ROPS, the Agency should be able to identify how these costs are associated with Agency-owned properties, as well as supporting documents showing that the properties were owned by the Agency when the expenditures were incurred.

Furthermore, although Finance has approved $946,693 on ROPS 13-14B for maintenance of Agency properties, the Agency should be able to identify how any costs incurred are associated with Agency-owned properties, as well as supporting documents showing that the properties are currently owned by the Agency. Without these supporting documents, any costs incurred may be disallowed and added to the prior period adjustment as funds available for expenditure on a future ROPS.

Except for 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 $11,202,042 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	19,099,901
Total RPTTF requested for administrative obligations	572,977
Total RPTTF requested for obligations	**$ 19,672,878**
Total RPTTF requested for non-administrative obligations	**19,099,901**
Denied Items	
Item No. 87	(869,691)
Item No. 88	(1,900,000)
Reclassified Items - RPTTF to "Other"	
Item No. 10	(43,711)
Item No. 12	(2,177)
Item No. 13	(40,360)
Item No. 82	(5,085,237)
	(5,171,485)
Reclassified Item - RPTTF to Admin	
Item No. 89	(16,610)
Increase to Requested Funding	
Item No. 28	651,996
Total RPTTF approved for non-administrative obligations	**11,794,111**
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)	**370,434**
Total RPTTF approved for obligations	**12,164,545**
ROPS III prior period adjustment	(962,503)
Total RPTTF approved for distribution	**$ 11,202,042**
Administrative Cost Cap Calculation	
Total RPTTF for 13-14A (July through December 2013)	17,569,239
Total RPTTF for 13-14B (January through June 2014)	11,794,111
Total RPTTF for fiscal year 2013-14	**29,363,350**
Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or $250,000)	880,901
Administrative allowance for 13-14A (July through December 2013)	510,467
Allowable RPTTF distribution for administrative cost for ROPS 13-14B	**370,434**

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, the Agency could not provide the financial records in time. 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/.

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: Ms. Lisa Connor, Project Manager, San Bernardino City
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office