



December 17, 2013

Mr. William Fulton, Director, Planning and Neighborhood Restoration Department
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101-4154

Dear Mr. Fulton:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 8, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of San Diego Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 27, 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 26, 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. 41 through 46, 82, 93, 95, and 96 – Settlement, Office of the Inspector General Audits, Various Project Areas totaling \$66,733,600. The Agency has requested Redevelopment Property Tax Trust Fund (RPTTF) totaling \$4,392,500 for this period. Finance is no longer objecting to these items; however, the amount permitted for ROPS 13-14B is reduced to \$0. Finance originally concluded that these items were not considered enforceable obligations as they were in connection with amounts loaned by the City of San Diego (City) to the former Redevelopment Agency (RDA). Our review indicates that the Agency received its Finding of Completion on December 2, 2013. Therefore, these items will become payable pursuant to HSC code section 34191.4 during the July through December 2013 ROPS period (ROPS 14-15A) period.
- Item No. 119 – North Park Gateway Disposition and Development Agreement totaling \$100,000 in reserve balances. Finance continues to deny this item. The underlying agreement is an Exclusive Negotiating Agreement, and contracts for this line item have not yet been awarded. During the meet and confer, the Agency claims the funding source as bond proceeds; however, because this item was listed for reserve funding, it is not clear that the Oversight Board made the necessary findings that this item is consistent with bond covenants. Therefore, this item remains denied at this time.

- Item No. 120 – Project Management costs in the amount of \$22,000. The Agency is requesting \$7,600 of RPTTF. Finance continues to deny this item. As previously determined, since Item No. 119 is not enforceable, the project management costs associated with the project is not necessary. Therefore, this item is not eligible for funding on this ROPS.

- Multiple Project Costs totaling \$15,071,658 funded with bond proceeds including the following:
 - Item No. 243 – Silverado Historic Ballroom Restoration in the amount of \$1,048.
 - Item No. 244 – Relocation Services for Silverado Ballroom Project in the amount of \$19,000.
 - Item No. 557 – 5 Points Pedestrian Improvements in the amount of \$99,300.
 - Item No. 558 – Washington St. Median Improvements in the amount of \$128,000.
 - Item No. 559 – University Ave. - Improvements in the amount of \$2,300,000.
 - Item No. 560 – El Cajon Blvd. Improvements in the amount of \$565,000.
 - Item No. 561 – West Camino de la Plaza Improvements in the amount of \$600,000.
 - Item No. 563 – Naval Training Center Shoreline Design/Entitlements & Westside Improvements in the amount of \$10,000,000.
 - Item No. 564 – Historic Silverado Ballroom Restoration in the amount of \$1,379,358.

Finance no longer denies the use of bond proceeds for the above listed items. Our review indicates that the Agency received its Finding of Completion on December 2, 2013 and is therefore permitted to expend proceeds in accordance with HSC Section 34191.4.

- Item No. 475 – Contingency Costs for All Project Areas in the amount of \$500,000 in RPTTF. Finance continues to deny this item. This line item is for unknown contingencies that may arise from the use of estimates in the ROPS process. Contingency funds are not enforceable obligations as defined in HSC section 34171 (d). Therefore this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 463 – Office Space Lease totaling \$1,609,800. Finance continues to reclassify this item as an administrative cost. The Agency contends the item is an enforceable obligation. Based on a review of additional information and documents provided, Finance agrees that the office space lease is an enforceable obligation under the administrative cost cap. The lease requires monthly payments of \$60,942 and expires on June 30, 2015. Therefore, for ROPS 13-14B, the amount of \$356,652 (i.e. \$60,942 per month times the six months from January thru June 2014) is an allowed administrative cost.

- Item No. 567 – Administrative Loan Agreement in the amount of \$519,398. Finance continues to deny this item. As previously determined, this loan agreement was entered into with the City to cover a funding shortfall for administrative costs during the ROPS III period, January through June 2013. The Agency submitted OB Resolution No. 2013-9 approving a loan agreement between the Agency and the City for administrative costs not to exceed \$1,638,792 for the period of January 1, 2013 through June 30, 2013 (ROPS III). The loan was entered into to cover excess administrative costs totaling

\$1,638,792 that were denied in Finance's ROPS III Meet and Confer determination letter dated December 27, 2012. The excess administrative costs were denied due to HSC section 34171(b) which limits administrative costs to three percent of property tax allocated to the Agency for the fiscal year. The OB action proposes repaying the City loan with RPTTF, which would circumvent the administrative cost restrictions outlined in HSC section 34171 (b). Therefore, as the loan's sole purpose is to fund administrative costs with property tax beyond the three percent cap, it is not allowed and is not eligible for RPTTF funding. The Agency must operate within the administrative cost allowance outlined in HSC section 34171 (b).

- Item No. 568 – Housing DDR Loan Agreement in the amount of \$2,298,467 of RPTTF. Finance continues to deny this item. As previously stated, this loan agreement was entered into with the City to address a funding shortfall for the remittance of the Low and Moderate Income Housing Fund Due Diligence Review (LMIHF DDR). The Agency submitted OB Resolution No. 2013-05 to Finance for review, and Finance's concluded in its determination letter dated July 12, 2013 that pursuant to HSC 34171 (d), a debt incurred from the LMIHF DDR process does not meet the definition of an enforceable obligation. Therefore, the loan agreement is not eligible for RPTTF funding.
- Prior Period Adjustment totaling \$4,697 – The Agency claims that due to the use of estimates, it made payments towards approved items in excess of the approved amount. As such, the Agency expended the following in excess of the amounts approved for the ROPS III period:
 - Item 203 –Property Maintenance for Balboa Theater over expended \$2,491
 - Item 247 – Property Maintenance for 6901 Linda Vista Rd. over expended \$2,036
 - Item 320 – Property Maintenance/Gas and Electric Services over expended \$170

Our limited review indicates these are enforceable obligations pursuant to HSC section 34171 (d). Therefore, Finance will increase the line item amounts requested during this period to offset the prior period adjustment for the payments already made so the authority to spend equals the total spent. We remind the Agency that HSC section 34177 (a) states that only those payments listed in the ROPS may be made by the Agency from the funds specified in the ROPS and that AB1 X26 provides remedies to alleviate the issue of actual costs exceeding estimate.

- Claimed Administrative Costs exceed the allowance by \$608,160. 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, based upon calculations done prior to reclassification of reserve balances, the Agency is eligible for \$2,671,992 in administrative expenses. The San Diego Auditor-Controller (CAC) distributed \$1,766,918 for the July through December 2013 period, thus leaving a balance of \$905,074 available for the January through June 2014 period.

Although \$1,147,441 is claimed for administrative cost, Item No. 463 for lease expenses in the amount of \$365,652 is considered administrative expenses and, therefore, has been reclassified from RPTTF to administrative expenses. Therefore, \$608,019 (\$1,147,441 + \$365,652 - \$905,074) of excess administrative cost is not allowed.

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.

Based upon a detailed analysis of the funds authorized for restriction in the LMIHF and OFA DDR, we have determined that multiple obligations for which restriction of funds was authorized in the DDRs continue to have unexpended reserves. Due to Finance's inability to differentiate between the varying funding sources used by Agency, and whether the use of other funds, reserves, or LMIHF referred to assets restricted within the OFA and LMIHF DDRs, or other funding available to the Agency, reclassification of these reserves is being deferred until such time as Finance and the Agency can work together to ensure correct allocation of available reserve balances to the appropriate obligation.

Multiple obligations for which restrictions were authorized within the OFA and LMIHF DDRs have retired as noted on the Agency's ROPS 13-14B. As a result, there are available reserve balances of \$142,608 (LMIHF DDR, Item Nos. 287 and 540) and \$576,666 (OFA DDR, Item Nos. 106, 140, 141, 239, 253, 274, 281, 294, 322, 372, 390, 397, 420, 421, 440, and 462). Finance has reclassified the following from RPTTF to reserve balances, totaling \$719,274.

- Item No. 147 in the amount of \$500,000 of RPTTF. Finance has reclassified \$142,608 from RPTTF to reserves balances; therefore, Finance is authorizing \$357,392 of RPTTF and \$142,608 of reserve balances.
- Item No. 466 – Administration Costs in the amount of \$2,147,441. Finance has determined that \$904,933 in administrative costs is allowed to be funded with RPTTF pursuant to the cap. See above. Of the \$904,933, Finance is reclassifying \$576,666 to reserve balances. Therefore, Finance is authorizing \$1,000,000 of other funds, \$328,267 of Admin RPTTF, and \$576,666 of reserve balances.

During conversations with our analyst, the Agency has requested the following reclassifications:

- Item No. 383 – Park Boulevard At-Grade Crossing in the amount of \$50,000. There are no reserve balances authorized for this obligation; therefore, the Agency requested that Finance change the funding source from reserve balances to bond proceeds.
- Item No. 466 – Administration Costs in the amount of \$1,000,000. There are no further reserve balances for this obligation; therefore, the Agency requested that Finance change the funding source from reserve balances to other funds.

For funding sources other than RPTTF, Finance made adjustments and/or reclassifications to the Prior Period Adjustments form to ensure consistency with the funding sources and amounts approved by Finance. HSC Section 34177 (a) (3) states the Agency can only make payments listed on the ROPS, from the funds listed and authorized by Finance. Although these adjustments and/or reclassifications have no effect on the amount of RPTTF the Agency receives, they will affect the Agency's fund balances for the funds sources involved.

Based upon a review of the Agency's Prior Period Adjustment form, the following excess expenditures were noted:

- Item No. 203 – Balboa Theater in the amount of \$2,491. The Agency had no authority to expend reserve balances. Therefore, the \$2,491 is disallowed.
- Item No. 247 – Property maintenance of Linda Vista Property in the amount of \$2,036. The Agency had authority to expend \$3,000 of reserve balances; however, actual expenditures were \$5,036. Therefore, the excess expenditure of \$2,036 is disallowed.
- Item No. 320 – Gas and Electric Service for Agency Properties in the amount of \$180. The Agency had authority to expend \$350 of LMIHF; however, actual expenditures were \$530. Therefore, the excess expenditure of \$180 is disallowed.
- Item No. 466 – Administrative Costs in the amount of \$4,179. The Agency had authority to expend \$488,577 of reserve balances; however, actual expenditures were \$492,756. Therefore, the excess expenditure of \$4,179 is disallowed.

The Agency should only expend funds that are approved on a ROPS and up to the amounts authorized. HSC section 34172 (h) authorizes the City to loan funds to the Agency for enforceable obligations and administrative expenses in the event of a shortfall, with the repayment eligible for RPTTF funding when requested in a subsequent ROPS. Additionally, multiple adjustments were made to the authorized amounts input by the Agency which did not affect the Agency's expenditures. The adjustments were made to the prior period payments form in order to ensure that the reporting was consistent with the amount approved by Finance.

We note that Agency's additional notes submitted to Finance (*Successor Agency's Additional Explanation of Notes and Reservation of Rights*) address issues that Finance deems to be inconsistent with the HSC. Section F reflects that the Agency has reserved its right to make payments that may vary from the estimated amounts in the prior period payments form, so long as the maximum expenditure amount is not exceeded. In addition, the Agency indicates that it intends to continue to make payments for ROPS II line items during the remaining portion of the ROPS 13-14A period (through December 31, 2013).

HSC section 34177 (a) (3) states that only those payments listed in the ROPS may be made by the Agency, from the funds specified in the ROPS. In addition, HSC section 34177 (l) (3) states that the Recognized Obligation Payment Schedule shall be forward looking to the next six months. These sections specifically address the amounts that are authorized for payment, and the time frame within which the expenditures should be made. The HSC does not permit the Agency to make payments that exceed the amounts authorized by Finance, or to reserve itself the right to make payments beyond the period covered by the ROPS, particularly more than one year beyond the time period for the ROPS II approved expenditures.

The review of your ROPS 13-14B was done consistent with the HSC, and did not allow the Agency to reserve itself rights not afforded by the legislation. For future ROPS periods, please ensure that expenditures made are consistent with both the amounts and the time period for which the authority was provided by 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

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 or for 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 \$16,789,449 as summarized on the next page:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	38,248,045
Total RPTTF requested for administrative obligations	1,147,441
Total RPTTF requested for obligations	\$ 39,395,486
Total RPTTF requested for non-administrative obligations	38,248,045
<u>Denied Items</u>	
Item No. 41	(130,000)
Item No. 42	(72,600)
Item No. 43	(399,300)
Item No. 44	(132,000)
Item No. 45	(247,100)
Item No. 46	(146,400)
Item No. 82	(3,000,000)
Item No. 93	(146,400)
Item No. 95	(52,100)
Item No. 96	(66,600)
Item No. 120	(7,600)
Item No. 475	(500,000)
Item No. 567	(519,398)
Item No. 568	(2,298,467)
	<u>(7,717,965)</u>
<u>Increased Items</u>	
Item No. 203	2,491
Item No. 247	2,036
Item No. 320	170
	<u>4,697</u>
<u>Reclassified Items Affecting Administrative Cost Allowance</u>	
Item No. 463	(365,652)
Total RPTTF for Administrative Cost Allowance Calculation	30,169,125
<u>Other Reclassified Items</u>	
Item No. 147	(142,608)
Total RPTTF approved for non-administrative obligations	30,026,517
Total RPTTF requested for administrative obligations	1,147,441
<u>Reclassified Items</u>	
Item No. 463	365,652
Total RPTTF requested for administrative obligations after reclass	1,513,093
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)	905,074
<u>Reclassified RPTTF Admin to Reserves</u>	
Item No. 463	(576,666)
Total RPTTF approved for obligations	30,354,925
ROPS III prior period adjustment	(13,565,476)
Total RPTTF approved for distribution	\$ 16,789,449
Administrative Cost Cap Calculation	
Total RPTTF for 13-14A (July through December 2013)	58,897,267
Total RPTTF for 13-14B (January through June 2014)	30,169,125
Total RPTTF for fiscal year 2013-14	\$ 89,066,392
Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or \$250,000)	2,671,992
Administrative allowance for 13-14A (July through December 2013)	1,766,918
Allowable RPTTF distribution for administrative cost for ROPS 13-14B	\$ 905,074

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_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, Lead Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Jeff Graham, President of Civic San Diego, San Diego City
Mr. Jon Baker, Senior Auditor and Controller Manager, San Diego County
California State Controller's Office