



Revised

December 18, 2013

Ms. Susan Gorospe, Senior Management Analyst
City of Santa Ana
60 Civic Center Plaza, M-25
Santa Ana, CA 92701

Dear Ms. Gorospe:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 7, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Santa Ana Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 26, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 7, 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 27, 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. 14 through 17 – Settlement Agreements and Litigation Expenses totaling \$534,988,051. Finance continues to deny these items. Finance initially denied these items as the requirement to set aside 20 percent of redevelopment agency (RDA) tax increment for low and moderate income housing purposes ended with the passage of the redevelopment dissolution legislation. The Agency contends the items are enforceable obligations because these are legal settlement agreements between the former RDA and third parties and judgments entered against the former RDA by the California Superior Court for the County of Orange dated 1984 and 1994 and are not related to the 20 percent set aside requirement. Finance disagrees, these items are directly tied to the set aside requirement. Thus, settlements awarding a percentage of tax increment to be set aside are not considered enforceable obligations. Additionally, the Agency has not provided documentation to support that the amounts requested are related to enforceable obligations existing prior to June 27, 2011. Pursuant to ABx1 26 and AB 1484, tax increment is no longer payable to the former RDA and therefore there is no obligation and these line items are not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item No. 22 – Payment to the South Main Commercial Corridor (SMCC) project area fund of the former RDA in the amount of \$5,750,000. Finance continues to deny this

item. The former RDA used a portion of the SMCC project area funds to pay the Supplemental Education Revenue Augmentation Fund (SERAF) obligation during fiscal year 2009-10. HSC section 33690 (c) only allows funds to be borrowed from and subsequently repaid to the Low and Moderate Income Housing Fund (LMIHF). Finance initially denied the item as the law does not require SERAF payments from other funding sources to be repaid with tax increment distributions. HSC section 34171 (d) (1) (B) allows loans to be repaid if they were borrowed by the former RDA for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms; however, even if repayments were made on the SMCC loan, the proceeds would be unencumbered balances, which are to be remitted for distribution to the taxing entities pursuant to HSC section 34177 (d). The Agency has not provided sufficient documentation to support the amount requested was related to enforceable obligations existing prior to June 27, 2011. Therefore, there is no obligation and this line item is not eligible for RPTTF funding.

- 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. During the Meet and Confer process, the Agency contended that the prior period adjustment was calculated incorrectly and should be \$713,412. The CAC concurred that the prior period adjustment should be \$713,412.

In addition, per Finance's letter dated November 7, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item Nos. 5 and 9 – 2003 Tax Allocation Bonds Series A and B totaling \$1,402,500. The Agency requested \$2,118,130 for RPTTF funding; however, the total amount due during ROPS 13-14B is \$715,630 for these items. 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. Based on our review of the bond indentures, we did not note any requirement to create such reserves. Additionally, based on the history of the Agency's RPTTF distributions, it is our understanding the next property tax allocation will be sufficient to make debt service payments due for this item. Therefore, the requested debt service payments have been reduced by \$1,402,500 (\$2,118,130-\$715,630).
- Item No. 86 – Station District Lawsuit Settlement in the amount of \$24,590. Per the terms of the settlement agreement, the former RDA can distribute no more than \$200,000 per fiscal year from this account. The Agency requested \$200,000 from Reserve Funds for the ROPS 13-14B period. However, it is our understanding the Agency plans to expend \$24,590 during the ROPS 13-14A period. Therefore, the request for Reserve Funds has been revised to \$175,410 to reflect the amount available for distribution this fiscal year. Therefore, Finance has adjusted the Reserve funds request from \$200,000 to \$175,410 (\$200,000-\$24,590).

- The Agency's claimed administrative costs exceed the allowance by \$333,553. HSC section 34171 (b) limits the fiscal year 2014 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$598,079 in administrative expenses. The Orange County Auditor-Controller's Office distributed \$372,299 for the July through December 2013 period, thus leaving a balance of \$225,780 available for the January through June 2014 period. Although \$559,333 is claimed for administrative cost, only \$225,780 is available pursuant to the cap. Therefore, \$333,553 of excess administrative cost is not allowed.

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 \$5,523,564 as summarized below:

| Approved RPTTF Distribution Amount For the period of January through June 2014 | |
|--|----------------------|
| Total RPTTF requested for non-administrative obligations | 18,644,437 |
| Total RPTTF requested for administrative obligations | 559,333 |
| Total RPTTF requested for obligations | \$ 19,203,770 |
| Total RPTTF requested for non-administrative obligations | 18,644,437 |
| <u>Denied Items</u> | |
| Item No. 5 | (302,500) |
| Item No. 9 | (1,100,000) |
| Item No. 14 | (7,372,474) |
| Item No. 15 | (1,843,473) |
| Item No. 16 | - |
| Item No. 17 | - |
| Item No. 22 | (500,000) |
| | <u>(11,118,447)</u> |
| Total RPTTF approved for non-administrative obligations | 7,525,990 |
| Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below) | 225,780 |
| Total RPTTF approved for obligations | 7,751,770 |
| ROPS III prior period adjustment | (713,412) |
| Total RPTTF approved for distribution | \$ 7,038,358 |
| Administrative Cost Cap Calculation | |
| Total RPTTF for 13-14A (July through December 2013) | 12,409,974 |
| Total RPTTF for 13-14B (January through June 2014) | 7,525,990 |
| Less approved unfunded obligations from prior periods | - |
| Total RPTTF for fiscal year 2013-14 | 19,935,964 |
| Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or \$250,000) | 598,079 |
| Administrative allowance for 13-14A (July through December 2013) | 372,299 |
| Allowable RPTTF distribution for administrative cost for ROPS 13-14B | 225,780 |

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 Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Francisco Gutierrez, Executive Director of Finance & Management Services Agency,
City of Santa Ana
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office