

December 17, 2013

Ms. Bonnie Lipscomb, Executive Director
City of Santa Cruz
337 Locust Street
Santa Cruz, CA 95060

Dear Ms. Lipscomb:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 14, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Santa Cruz 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 14, 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 2, 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. 21, 22, 25, and 26 – Tannery Digital Media Center (TDMC) Space 110 Improvements and Professional Services from reserve balances totaling \$447,104. Finance continues to deny these items at this time. The Agency contends that such improvement and service costs are required to satisfy the requirements of an Economic Development Administration grant and the grant funds cannot be used as a funding source for the costs. Finance initially denied these items as the Agency did not provide sufficient documentation to substantiate the Agency's enforceable obligation.

During the Meet and Confer process, the Agency contended that the underlying enforceable obligation for these items is the American Recovery and Reinvestment Act (ARRA) grant from the U.S. Department of Commerce, Economic Development Administration, which was awarded to the former Redevelopment Agency (RDA) on September 22, 2009. The Agency asserts that the grant funded the rehabilitation of the building, but the tenant improvements were not eligible expenses under the grant. Additionally, the Agency stated that under the Lease Agreement with Artspace Tannery, the Agency is responsible for finding a tenant and negotiating the terms and conditions of the lease. The Agency provided excerpts from the ARRA grant and excerpts from the Lease Agreement; however, without the complete documents Finance is unable to determine what the Agency is required to do, if anything, under these agreements.

Therefore, these items are not eligible for funding on this ROPS. However, if the Agency is able to provide complete copies of the agreements, the Agency may relist these items on a subsequent ROPS for Finance's review and approval.

- Item No. 30 – TDMC Landscaping from other funds in the amount of \$75,000. Finance continues to deny this item at this time. The Agency provided an excerpt from a 2012 Lease Agreement to substantiate the Agency's obligation. Finance initially denied this item as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. During the Meet and Confer process, the Agency clarified that the funding source proposed for this item is future rent revenues to be collected; as such, the Agency currently does not have the funds on hand. The Agency provided excerpts from the ARRA grant and excerpts from the Lease Agreement; however, without the complete documents Finance is unable to determine what the Agency is required to do, if anything, under these agreements. Therefore, this item is not eligible for funding on this ROPS. However, if the Agency is able to provide complete copies of the agreements, the Agency may relist this item on a subsequent ROPS for Finance's review and approval.
- Item No. 34 – TDMC Common Area Maintenance Costs in the amount of \$7,500 from the Redevelopment Property Tax Trust Fund (RPTTF). Finance continues to deny this item at this time. The Agency provided an excerpt from a 2012 Lease Agreement to substantiate the Agency's obligation. Finance initially denied this item as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. During the Meet and Confer process, the Agency provided excerpts from the ARRA grant and excerpts from the Lease Agreement; however, without the complete documents Finance is unable to determine what the Agency is required to do, if anything, under these agreements. Therefore, this item is not eligible for funding on this ROPS. However, if the Agency is able to provide complete copies of the agreements, the Agency may relist this item on a subsequent ROPS for Finance's review and approval.
- Item No. 45 – Del Mar Property Management and Maintenance is partially denied in the amount of \$80,000. The Agency requests RPTTF funding in the amount of \$7,000 and \$80,000 from reserve balances. Finance continues to deny the \$80,000 from reserve balances at this time. Finance is approving RPTTF in the amount of \$7,000 in order to fund routine property management and maintenance costs for the Agency's property prior to disposition. However, Finance initially denied non-routine costs totaling \$80,000, including fencing and parking lot resurfacing, as the costs are not allowed at this time. The Agency has yet to submit a Long Range Property Management Plan to Finance and did not provide documentation supporting the requirement for these non-routine costs.

During the Meet and Confer process, the Agency contended that as the property owner, the Agency is obliged to keep the property in good condition, to maintain its value, and to protect the public from injury and the Agency from liability issues. However, the Agency only provided excerpts from a Theater Lease between Swenson-Ow Del Mar Joint Venture and Nickelodeon Theaters and excerpts from an Assignment of Subleases, Rents, and Service Contracts Agreement. Without the complete documents Finance is unable to determine if the Agency is, in fact, the owner of the property, and if so, what the Agency is required to do, if anything, under these agreements. Therefore, this item is partially denied for reserve balances in the amount of \$80,000. However, if the

Agency is able to provide complete copies of the agreements, the Agency may relist this item on a subsequent ROPS for Finance's review and approval.

- Item No. 67 – Trolley Repairs from reserve balances in the amount of \$6,321. Finance continues to deny this item. The former RDA entered into a Lease Agreement with Santa Cruz Trolley Consortium, Inc. on June 13, 2011. The Agency states that they have an obligation to pay for repairs as specified in the Lease Agreement. However, Finance initially denied this item as Section 6.01 of the Lease Agreement states that the Agency shall warrant the working condition of the trolley for the first year in an amount not to exceed \$20,000. Consequently, the Agency's obligation to pay for repairs on City of Santa Cruz (City) owned trolleys is expired. During the Meet and Confer process, the Agency contended that under the terms of the lease itself, the trolley is being leased from month-to-month, subject to all terms, conditions, provisions, and obligations of the Lease Agreement. However, Section 6.01 of the Lease Agreement only guarantees the working condition of the trolley for the first year of operation, up to \$20,000. This guaranty is not provided in subsequent years. Therefore, this item is no longer an enforceable obligation of the Agency and is not eligible for funding on the ROPS.
- Housing Entity Maintenance and Administrative Costs totaling \$54,000 are not enforceable obligations of the Agency, which includes:
 - Item No. 133 – LMIH Project Management and Delivery from other funds in the amount of \$24,000.
 - Item No. 155 – 110 Lindberg Street Affordable Housing (Project Management Costs) from reserve balances in the amount of \$30,000.

Finance continues to deny these items at this time. Finance initially denied these items as the City elected to retain the authority to perform housing functions previously performed by the former RDA. HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties obligations and housing assets shall be transferred to the city, county or city and county. The transfer of "duties and obligations" includes the transfer of any on-going maintenance and administrative costs.

During the Meet and Confer process, the Agency contended these amounts represent the remaining balances of projects and agreements that were determined to be enforceable obligations during the Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR). However, the Agency did not provide any other documents identifying these items as being related to enforceable obligations existing prior to June 27, 2011. Therefore, these items are not enforceable obligations and are not eligible for funding on the ROPS.

To the extent these costs are associated with enforceable obligations existing prior to June 27, 2011, the Agency should list those costs on a subsequent ROPS for Finance's review and approval.

- Item No. 174 – Emergency Rent Program from reserve balances in the amount of \$36,210. Finance continues to deny this item. The Agency provided the 19th Amendment to the Agreement to Provide Funding for the Emergency

Rent/Mortgage Assistance Program. Section 3 of the amendment states that the Agency Grant (Agency's obligation) shall only be available through June 30, 2012. During the Meet and Confer process, the Agency contended this amount represents the remaining balance of the agreement that was determined to be an enforceable obligation during the LMIHF DDR. However, the Agency did not provide any other documents identifying this item as an enforceable obligation since Section 3 of the amendment states that the Agency's obligation shall only be available through June 30, 2012. Therefore, this item is no longer an enforceable obligation and is not eligible for funding on the ROPS.

- Item Nos. 175, 176, and 177 – Kron House (Various Professional Services) totaling \$21,131. Finance continues to deny these items at this time. Finance initially denied these items as all the service agreements provided by the Agency were executed after June 27, 2011. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. During the Meet and Confer process, the Agency provided clarification that these items consist of costs already incurred in prior ROPS periods, but not listed on a prior ROPS for approval; as such, the Agency is requesting approval and funding for these items. The Agency provided excerpts from the ARRA grant and excerpts from the Lease Agreement; however, without the complete documents Finance is unable to determine what the Agency is required to do, if anything, under these agreements. Therefore, these items are not eligible for RPTTF funding on this ROPS. However, if the Agency is able to provide complete copies of the agreements, the Agency may relist these items on a subsequent ROPS for Finance's review and approval.
- During our review, which may have included obtaining financial records, Finance initially determined the Agency has funds that are required to be used prior to requesting RPTTF. Pursuant to HSC section 34177 (I) (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. Finance initially determined that the Agency has available funds totaling \$407,661, which included reserve balances totaling \$308,661 and other funds totaling \$99,000.

During the Meet and Confer process, the Agency contended that they have been expending the funds retained through the LMIHF DDR process and has approximately \$170,000 remaining. However, 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. Since none of these payments have been listed on a ROPS, the Agency has not been expending funds in accordance with the statute. To the extent any of the expenditures are for approved enforceable obligations, the Agency should list those specific items on a subsequent ROPS for Finance's review and approval. If any of the items are determined to be unenforceable, those funds will be included in the Agency's fund balance and be considered available for expenditure on approved enforceable obligations. However, due to the uncertainty of the actual balances available in the current ROPS, Finance will not reclassify any of the approved enforceable obligations to be funded from Reserve Funds.

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, per Finance's letter dated November 14, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item No. 16 – Monterey Bay Unified Air Pollution Control District (MBUAD) Trolley Grant Agreement from other funds in the amount of \$7,600. The Grant Agreement between the former redevelopment agency (RDA) of the City of Santa Cruz (City) and MBUAD is dated December 2, 2011. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. Therefore, this item is not an enforceable obligation and not eligible for funding on ROPS.
- Item No. 186 - Soquel/Park Way Improvements in the amount of \$214,515. The Agency provided two cooperation agreements between the former RDA and the City. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the City that created the RDA and the former RDA are not enforceable. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding on ROPS.

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 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 \$1,499,365 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	1,624,088
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 1,749,088
Total RPTTF requested for non-administrative obligations	1,624,088
<u>Denied Items</u>	
Item No. 34	(7,500)
Item No. 175	(4,575)
Item No. 176	(16,073)
Item No. 177	(483)
Item No. 186	(214,515)
Total RPTTF approved for non-administrative obligations	1,380,942
Total RPTTF requested for administrative obligations	125,000
Total RPTTF approved for administrative obligations	125,000
Total RPTTF approved for obligations	\$ 1,505,942
ROPS III prior period adjustment	(6,577)
Total RPTTF approved for distribution	\$ 1,499,365

Pursuant to HSC section 34177 (I) (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, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Kim Wigley, Senior Accountant, City of Santa Cruz
Ms. Mary Jo Walker, Auditor-Controller, Santa Cruz County
California State Controller's Office