



November 14, 2013

Mr. Eddie Manfro, City Manager
City of Westminster
8200 Westminster Boulevard
Westminster, CA 92683

Dear Mr. Manfro:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Westminster Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to the California Department of Finance (Finance) on September 30, 2013 for the period of January through June 2014. Finance has completed its review of your ROPS 13-14B, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on a sample of line items reviewed and application of the law, the following do not qualify as enforceable obligations for the reasons specified:

- Item No. 7 – Ongoing Pension and Medical obligations in the amount of \$2,930,746. Insufficient documentation was provided to support the amount claimed. Therefore, this item is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item Nos. 35 and 36 – Capital Projects and Public Improvements totaling \$22,562,492 payable from bond proceeds and RPTTF, Pursuant to HSC section 34191.4 (c) bond proceeds may be used for the purposes for which the bonds were issued. The Agency received a Finding of Completion (FOC) on June 20, 2013; however, it is our understanding the 2009 bond proceeds were issued to construct a police facility. The projects identified on Item Nos. 35 and 36 are not for the construction of a police facility. Therefore, the use of 2009 bond proceeds for these projects is not in a manner consistent with the original bond covenants. Additionally, the Agency did not provide sufficient documentation to support the amounts claimed. Therefore, these line items are not eligible for bond proceeds or RPTTF funding.
- Item No. 43 – Public Improvements in the amount of \$790,389. The Agency did not provide sufficient documentation to support the amount claimed. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 48 – Police and Parking Facility in the amount of \$8,546,616. Finance continues to deny this item. Finance originally denied this item in letters dated December 18, 2012 and December 21, 2012. The Agency received a FOC on June 20, 2013, however, it is our

understanding the original agreement and subsequent amendment were contracts between the City of Westminster (City) and Griffin Structures, Inc.; the Agency is not a party to the Agreement. The Agency contends the item is an enforceable obligation because the 1982 Agency-City relationship agreement, the Redevelopment Plan, and several resolutions of the City and the former redevelopment agency allow the City to contract on behalf of the former RDA. However, the 1982 Agreement does not give the City the authority to enter into contracts on behalf of the Agency. 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.

Although the Agency has received a FOC; the Agency is required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued if they were issued after December 31, 2010. Therefore, this line item is not eligible for bond proceeds funding.

- Claimed administrative costs exceed the allowance by \$52,975. 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 \$525,302 in administrative expenses. The Orange County Auditor-Controller's Office did not distribute any administrative costs for the July through December 2013 period, thus leaving a balance of \$525,302 available for the January through June 2014 period. Although \$497,777 is claimed for administrative cost, Item No. 8 for Rent & Operations costs in the amount of \$80,500 is considered an administrative expense and should be counted toward the cap. Therefore, \$52,975 of excess administrative cost is not allowed.

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. However, the current approved RPTTF is insufficient to allow for the entire prior period adjustment (PPA) of \$10,078,515 during this ROPS period. The Agency should apply the remaining funds prior to requesting RPTTF during ROPS for the period July through December 2014 (ROPS 14-15A).

Except for items denied in whole or in part as enforceable obligations or for the item that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 13-14B. If you disagree with the determination with respect to any items on your ROPS 13-14B, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's maximum approved RPTTF distribution for the reporting period is zero as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	16,592,557
Total RPTTF requested for administrative obligations	497,777
Total RPTTF requested for obligations	\$ 17,090,334
Total RPTTF requested for non-administrative obligations	16,592,557
Denied Items	
Item No. 35	(9,000,000)
Item No. 40	(2,930,746)
Item No. 43	(790,389)
	<u>(12,721,135)</u>
Reclassified Items	
Item No. 21	(80,500)
Total RPTTF approved for non-administrative obligations	3,790,922
Total RPTTF requested for administrative obligations	497,777
Reclassified Items	
Item No. 21	80,500
Total RPTTF for administrative obligations	578,277
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)	525,302
Total RPTTF approved for obligations	4,316,224
ROPS III prior period adjustment	(10,078,515)
Total RPTTF approved for distribution*	\$ -
Administrative Cost Cap Calculation	
Total RPTTF for 13-14A (July through December 2013)	13,719,160
Total RPTTF for 13-14B (January through June 2014)	3,790,922
Less approved unfunded obligations from prior periods	
Total RPTTF for fiscal year 2013-14	17,510,082
Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or \$250,000)	525,302
Administrative allowance for 13-14A (July through December 2013)	-
Allowable RPTTF distribution for administrative cost for ROPS 13-14B	525,302

*Total RPTTF approved for distribution shown as "zero" because the current approved RPTTF amount of \$4,316,224 is insufficient to fully offset the prior period adjustment of \$10,078,515.

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/).

Absent a Meet and Confer, 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 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 Nichelle Thomas, Supervisor or Alex Watt, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Robin Roberts, City Clerk, City of Westminster
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office