



May 16, 2014

Mr. Aldo Schindler, Director of Community Development
City of Whittier
13230 Penn Street
Whittier, CA 90602

Dear Mr. Schindler:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 10, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Whittier Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to Finance on February 27, 2014, for the period of July through December 2014. Finance issued a ROPS determination letter on April 10, 2014. 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 April 24, 2014.

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 No. 106 – Administrative cost shortfall loan in the amount of \$574,175 is not allowed. Finance no longer denies \$498,708 of this item. Finance initially denied this item as it was our understanding the Agency was fully funded for their administrative expenses. The Agency contended that based on the Redevelopment Property Tax Trust Fund (RPTTF) distributions and the ROPS I prior period adjustment, it appears that the Agency has unfunded administrative costs of \$498,708. Based on further review during the Meet and Confer process, the following determinations are being made with respect to each ROPS period:
 - For the ROPS I period, the Agency had a shortfall in funding received from the RPTTF; however, Finance initially determined that any expenditures incurred and paid for would have been covered by Reserve funds available and would not have been included in the beginning balance in the Other Funds and Accounts (OFA) Due Diligence Review (DDR). During the Meet and Confer process, the Agency provided accounting records supporting the costs incurred by the City for various administrative services provided to the Agency for fiscal year 2011-12, which included the ROPS I period. The Agency was approved for \$250,000 in administrative costs and reported expending \$1,292 from the RPTTF, which left an unfunded balance of \$248,708. Therefore, this item is eligible for RPTTF funding totaling \$248,708 as it was an unfunded obligation in the ROPS I period.

- For the ROPS II period, the Agency did not report any administrative expenditures and the total expenditures verified by the County Auditor Controller (CAC) were less than the RPTTF distribution received. During the Meet and Confer process, the Agency contended that the CAC distribution did not cover the administrative cost allowance; therefore, the Agency did not use any of the unexpended RPTTF received on administrative costs. The Agency also provided a breakdown of the administrative costs incurred by the City for the ROPS II period. The Agency was approved for \$125,000 in administrative costs and reported expending \$0 from the RPTTF, which left an unfunded balance of \$125,000. Therefore, this item is eligible for RPTTF funding totaling \$125,000 as it was an unfunded obligation in the ROPS II period.
- For the ROPS III period, the Agency had a shortfall in funding received from the RPTTF; however, in Finance's OFA DDR Meet and Confer letter dated April 20, 2013, Finance approved the Agency to retain the full ROPS III funding shortfall, which included \$250,000 for administrative costs. During the Meet and Confer process, the Agency contended that they did not have authority to spend these funds on the administrative cost allowance; therefore, the Agency did not use any of retained balances on administrative costs. The Agency also provided a breakdown of the administrative costs incurred by the City for the ROPS III period. The Agency was approved for \$125,000 in administrative costs and reported expending \$0 from the RPTTF, which left an unfunded balance of \$125,000. Therefore, this item is eligible for RPTTF funding totaling \$125,000 as it was an unfunded obligation in the ROPS III period.
- For the ROPS 13-14A period, the Agency received the full RPTTF distribution approved by Finance. During the Meet and Confer process, the Agency agreed that the full amount was received and no additional funds are being requested.
- For the ROPS 13-14B period, HSC section 34173 (h) provides that the city that authorized the creation of a RDA may loan or grant funds to a successor agency for administrative costs. An enforceable obligation shall be deemed to be created for the repayment of those loans. HSC section 34171 (h) states that the receipt and use of these funds shall be reflected on the ROPS. However, since the ROPS 13-14B period is still in progress, Finance is not able to determine the actual amount spent on enforceable obligations that should be repaid. Therefore, this item is currently not an enforceable obligation and is not eligible for RPTTF funding at this time.

Therefore, \$498,708 of this item is an enforceable obligation and is eligible for funding. The remaining \$75,467 is currently not an enforceable obligation and is not eligible for funding on this ROPS. Finance notes that HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. However, 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. In the future, the Agency can obtain prior oversight board approval to make payments for enforceable obligations, including administrative costs, from a funding source, including City loans, other than those approved by Finance.

- Item No. 118 – Housing administrative costs allowance pursuant to AB 471 totaling \$75,000 is not an enforceable obligation. Finance continues to deny this item. Finance denied this item because pursuant to HSC section 34171 (p), the housing entity administrative cost allowance is applicable only in cases where the city, county, or city and county that authorized the creation of the redevelopment agency (RDA) elected to not assume the housing functions. Because the housing entity to the former redevelopment agency of the City of Whittier (City) is the City-formed Housing Authority (Authority), the Authority operates under the control of the City and is considered the City under Dissolution Law (ABx1 26 and AB 1484).

The Agency contends that the City elected not to retain the housing functions, but the Authority, as a separate legal entity from the City, did elect to retain the housing functions pursuant to HSC section 34176 (b) (2) and should therefore be eligible for the housing entity administrative allowance. However, pursuant to HSC section 34167.10 (a), the definition of “city” includes, but is not limited to, any reporting entity of the city for purposes of its comprehensive annual financial report (CAFR), any component unit of the city, or any entity controlled by the city or for which the city is financially responsible or accountable. The “city” definition under HSC section 34167.10 (a) states that it is for the purpose of Part 1.85 (commencing with Section 34170), which includes HSC section 34171, as amended by AB 471, and HSC section 34176. The Authority is included in the City’s CAFR, which identifies the Authority as a component unit of the City and states that the City is financially accountable for the component units.

Although the Authority is a separate legal entity from the City, HSC section 34167.10 (c) states that it shall not be relevant that the entity is formed as a separate legal entity. It should also be noted that HSC section 34167.10 (c) goes on to state that “the provisions of this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part [Part 1.8] and Part 1.85...and any attempt to determine otherwise would thwart the intent of these two parts.” Therefore, based on our review, the City, by way of the Authority, elected to retain the housing functions pursuant to HSC section 34176 (a) and is not eligible for \$75,000 of housing entity administrative allowance.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2013 period. HSC section 34186 (a) also specifies 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 table below 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, Finance is not objecting to the remaining items listed on your ROPS 14-15A. The Agency’s maximum approved RPTTF distribution for the reporting period is \$3,861,037 as summarized in the following table:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	3,890,323
Total RPTTF requested for administrative obligations	200,000
Total RPTTF requested for obligations	\$ 4,090,323
Total RPTTF requested for non-administrative obligations	3,890,323
<u>Denied Items</u>	
Item No. 106	(75,467)
	(75,467)
Total RPTTF authorized for non-administrative obligations	\$ 3,814,856
Total RPTTF requested for administrative obligations	200,000
<u>Denied Item</u>	
Item No. 118	(75,000)
	(75,000)
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 3,939,856
ROPS 13-14A prior period adjustment	(78,819)
Total RPTTF approved for distribution	\$ 3,861,037

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. During the ROPS 14-15A review, Finance requested financial records to support the cash 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 14-15A review period to properly identify the Agency's cash balances. If it is determined the Agency possesses cash balances that are available to pay approved obligations, the Agency should request the use of these cash balances prior to requesting RPTTF in ROPS 14-15B.

Please refer to the ROPS 14-15A schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS>

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2014. This determination only applies 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. Ben Pongetti, Redevelopment Manager, City of Whittier
Ms. Kristina Burns, Manager, Department of Auditor-Controller, Los Angeles County
California State Controller's Office