

December 17, 2014

Mr. Conal McNamara, Director of Community Development
City of Whittier
13230 Penn Street
Whittier, CA 90602

Dear Mr. McNamara:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 12, 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 14-15B) to Finance on September 30, 2014, for the period of January through June 2015. Finance issued a ROPS determination letter on November 12, 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 November 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 Nos. 45 and 68 – Quad DDA and Whittwood OPA payments in the amount of \$1,255,000 is partially denied. Finance continues to partially deny these items. Of the requested amount, the Agency is requesting \$635,000 as reserves needed for the ROPS 15-16A period because they believe their tax incremental cap will be reached. Finance partially denied these items because pursuant to HSC section 34171 (d) (1) (A), reserves are only allowed for debt service when required by the bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half calendar year. Further, in any ROPS period the dissolution statutes authorize successor agencies to make payments that are due in that ROPS period only.

During the Meet and Confer process, the Agency contended that the Los Angeles County Auditor-Controller is not in agreement with Finance regarding the plan limits. However, AB 1484 does not authorize the creation of a reserve, except for limited circumstances. Since the Agency's request to build a reserve, based on limitations in the former redevelopment agency's (RDA's) plan, is not authorized in statute, Finance denies the request. Relying on a tax increment cap that was not reached prior to the enactment of the dissolution statutes to prevent payment of enforceable obligations is an interpretation of statutes that is incorrect and inconsistent with the purpose and intent of

the RDA dissolution process. It is Finance's expectation that ABx1 26/AB 1484 allows enforceable obligations to be listed on the ROPS and payable out of available Redevelopment Property Tax Trust Fund (RPTTF) funds until such obligations have been satisfied. Therefore, tax increment caps should not be applied and the reserve amounts of \$365,000 for Item No. 45 and \$270,000 for Item No. 68 are not eligible for RPTTF funding on this ROPS.

- Item No. 118 – Housing administrative costs allowance pursuant to AB 471 totaling \$150,000. 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 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 \$150,000 of housing entity administrative allowance.

- Item No. 119 – Demolition of Agency owned property in the amount of \$60,000 is not an enforceable obligation. Finance continues to deny this item. Finance denied this item because HSC section 34177.3 (a) prohibits successor agencies from creating new enforceable obligations or begin new redevelopment work that is not related to an enforceable obligation that existed prior to June 28, 2011. It is our understanding there is no contract in place and the requirement to demolish the property is not tied to an existing enforceable obligation. During the Meet and Confer process, the Agency contended that demolition is necessary due to the property's condition. However, the cost associated with demolition is not an enforceable obligation because this is an improvement to property and is beyond routine maintenance and repairs that would be associated with maintaining the property in the current condition. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.

In addition, per Finance's letter dated November 12, 2014, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item Nos. 1, 29, 47, 48, 70 and 98 – Reserves for debt service payments totaling \$802,500. Of the total requested of \$2,047,394, \$802,500 is authorized as reserves for debt service payment in the second half of the calendar year. Finance notes that pursuant to HSC section 34183 (a) (2) (A), debt service payments have first priority for payment from distributed RPTTF funding. As such, the \$802,500 requested to be held in reserve along with the amounts required for the current ROPS period should be transferred upon receipt to the bond trustee. The amounts approved for debt service payments on this ROPS are restricted for that purpose and are not authorized to be used for other ROPS items. Any requests to fund these debt service items again in the ROPS 15-16A period will be denied unless insufficient RPTTF was received to satisfy the approved annual debt service payments.
- Item Nos. 6 and 114 through 117 – Property maintenance and consulting services costs totaling \$12,892 is partially denied. According the Agency's ROPS 14-15B Notes Form, costs in excess of the ROPS 13-14B authorized amounts were included in the requested amounts for ROPS 14-15B. However, the CAC allowed the excess amounts to net against the remaining cash balance in its review of the Agency's Prior Period Adjustments Form for ROPS 13-14B. Therefore, \$10,753 is approved and the excess \$2,139 in RPTTF funding is denied as follows:
 - Item No. 6 – Of requested \$3,335, excess of \$834 is denied.
 - Item No. 114 – Of requested \$2,390, excess of \$327 is denied.
 - Item No. 115 – Of requested \$2,388, excess of \$325 is denied.
 - Item No. 116 – Of requested \$2,390, excess of \$327 is denied.
 - Item No. 117 – Of requested \$2,389, excess of \$326 is denied.
- Item Nos. 7, 8, 13, 14, 37, 38, 41, 42, 59, 65, 80, 81, 86, 87, 100 and 103 – Various bond funded project costs totaling \$1,880,300. A Finding of Completion was issued on May 24, 2013, and the Agency can now utilize proceeds derived from bonds issued prior to January 1, 2011 in a manner consistent with the original bond covenants. According to the Agency the projects associated with these line items are a low priority and the bond proceeds will likely to be reallocated to infrastructure and affordable housing projects. Documents were not provided to support the requested six-month expenditures because there are no current plans in place nor have any contracts been signed. To the extent the Agency can provide proper documentation, such as detailed plans outlining specific tasks to be undertaken and third party estimates supporting the six-month estimated expenditures, the funding may be approved on future ROPS.
- Item No. 56 – Project management costs for bond funded projects in the amount of \$250,000 is partially reclassified. The Agency requests \$230,000 in Bond Proceeds and \$20,000 in RPTTF funding. Since these project management costs are associated with projects funded with bond proceeds, these costs should also be fully funded with bond proceeds. Therefore, the requested \$20,000 in RPTTF funding has been reclassified to Bond Proceeds funding.

During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should 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. The Agency provided financial records that displayed available Other Funds totaling \$33,280.

Therefore, the funding source for the following items have been reclassified to Other Funds and in the amounts specified below:

- Item Nos. 15 and 43 – Successor Admin. Cost. The Agency requests a total of \$62,500 of RPTTF; however, Finance is reclassifying \$33,280 to Other Funds. These items are enforceable obligations for the ROPS 14-15B period. However, these obligations do not require payment from property tax revenues and the Agency has \$33,280 in available Other Funds. Therefore, Finance is approving RPTTF in the amount \$29,220 and the use of Other Funds in the amount of \$33,280, totaling \$62,500.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15B form the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2014 period. HSC section 34186 (a) also specifies prior period adjustments self-reported by successor agencies are subject to review by the CAC and the State Controller. The amount of RPTTF approved in the table below includes the prior period adjustment resulting from the CAC's review of the Agency's self-reported prior period adjustment.

Except for the items denied in whole or in part or items that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 14-15B. The Agency's maximum approved RPTTF distribution for the reporting period is \$2,945,666 as summarized in the Approved RPTTF Distribution Table on the following page:

Approved RPTTF Distribution	
For the period of January through June 2015	
Total RPTTF requested for non-administrative obligations	3,850,944
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations on ROPS	\$ 3,975,944
Total RPTTF requested for non-administrative obligations	3,850,944
<u>Denied Items</u>	
Item No. 6	(834)
Item No. 45	(365,000)
Item No. 68	(270,000)
Item No. 114	(327)
Item No. 115	(325)
Item No. 116	(327)
Item No. 117	(326)
Item No. 118	(150,000)
Item No. 119	(60,000)
	(847,139)
<u>Reclassified Item</u>	
Item No. 56	(20,000)
Total RPTTF authorized for non-administrative obligations	\$ 2,983,805
Total RPTTF requested for administrative obligations	125,000
<u>Cash Balances - Items reclassified to other funding sources</u>	
Item No. 15	(31,250)
Item No. 43	(2,030)
	(33,280)
Total RPTTF authorized for administrative obligations	\$ 91,720
Total RPTTF authorized for obligations	\$ 3,075,525
ROPS 13-14B prior period adjustment	(129,859)
Total RPTTF approved for distribution	\$ 2,945,666

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 14-15B review, Finance requested financial records to support the cash balances reported by the Agency. The Agency was able to support the amounts reported except the balances reported under columns Prior ROPS period balances and DDR RPTTF balances retained, which Finance believes should have had a beginning balance of \$1,146,708. Therefore, as noted above, Finance has reclassified the available cash balances of \$33,280 that were supported by the Agency's records. Finance will continue to work with the Agency after the ROPS 14-15B review period to resolve any remaining issues as described above. If it is determined the Agency possesses additional 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 15-16A.

Please refer to the ROPS 14-15B 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 January 1 through June 30, 2015. 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 the 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 agency in the RPTTF.

Pursuant to HSC section 34177 (a) (3), only those payments listed on an approved ROPS may be made by the successor agency from the funds specified in the ROPS. However, if for whatever reason the Agency needs to make payments for approved obligations from another funding source, HSC section 34177 (a) (4) requires the Agency to first obtain oversight board approval.

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
Acting Program Budget Manager

cc: Mr. Ben Pongetti, Development Project Manager, City of Whittier
Ms. Kristina Burns, Manager, Department of Auditor-Controller, Los Angeles County
California State Controller's Office