



REVISED

June 19, 2015

Ms. Cindy Russell, Chief Finance Officer
City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Dear Ms. Russell:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letters dated March 31 and May 15, 2015. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of San Juan Capistrano Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16A) to Finance on February 25, 2015, for the period of July through December 2015. Finance issued a ROPS determination letter on March 31, 2015. Subsequently, the Agency requested a Meet and Confer session on one or more of the determinations made by Finance. The Meet and Confer session was held on April 13, 2015.

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 determinations being disputed.

- Item No. 11 – Lower Rosan Ranch Loan Payable in the amount of \$3,525,125. Finance no longer denies this item. Finance previously denied this item because the actual amended promissory note provided by the Agency is dated July 6, 2011 and HSC section 34163 (c) prohibits a redevelopment agency (RDA) from amending or modifying existing agreements after June 27, 2011. During the Meet and Confer process the Agency contended that this item is an enforceable obligation because the Board of Directors (Board) of the former RDA approved the amended promissory note on June 21, 2011 via resolution. Our review of the resolution indicates that the Board authorized and directed the Executive Director and Finance Officer of the former RDA to execute all documents necessary to secure short term financing based on specific terms presented to the Board. Finance confirmed that the terms of the July 6, 2011 loan reflected the terms approved by the Board on June 21, 2011. For these reasons, Finance has concluded that this item is an enforceable obligation and the Agency is eligible for \$198,777 in Redevelopment Property Tax Trust Funds (RPTTF) on this ROPS.
- Item No. 14 – Kinoshita Note Principal Payment Set-Aside in the amount of \$7,996,697 is not allowed. Finance continues to deny this item. The Agency continues to contest the denial of this item; however, no additional information was provided during the Meet and Confer process to support this item is an enforceable obligation on ROPS 15-16A.

Therefore, as previously determined, this item is a contingent obligation for a principal balloon payment for the Kinoshita Note Payable due March 1, 2021. HSC section 34177 (b) allows reserves for indentures, trust indentures, or similar documents governing the issuance of outstanding RDA bonds. The statute does not currently recognize contingent or unknown obligations, thus creation of reserves for such items is not permissible. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding at this time. We note that the Agency may be eligible to receive funds for this item in future ROPS periods.

- Item No. 32 – Legal Costs associated with assets, obligations, and property totaling \$50,000. Finance continues to deny this item. The Agency requested the use of \$509 in Other Funds and \$49,491 in RPTTF funding for this item. Finance originally denied this item because on the Agency's Long-Range Property Management Plan, approved on January 16, 2015, the Agency designated the final disposition for these properties as governmental and future development, and transferred these properties to the City of San Juan Capistrano (City) pursuant to HSC 34191.5 (b), deemed effective on January 16, 2015. Therefore, the City is now responsible for legal costs associated with these assets.

During the Meet and Confer the Agency claimed that of the amount requested, \$15,000 is legal costs associated with other assets and enforceable obligations. HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. However, Item 32 relates to general legal representation and not specifically to bring or contest a legal action in court; therefore, it is considered an administrative cost and it is not eligible for payment outside of the administrative cost cap. We note that the Agency requested that this item not be reclassified to administrative costs if it not approved during the Meet and Confer process. Therefore, no reclassification will be made.

In addition, per Finance's letter dated March 31, 2015, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item No. 31– Property Maintenance totaling \$10,000 in Other Funds is not allowed. Finance approved the Agency's Long-Range Property Management Plan on January 16, 2015. The Agency designated the final disposition for these properties as governmental and future development, and transferred these properties to the City of San Juan Capistrano (City) pursuant to HSC 34191.5 (b), deemed effective on January 16, 2015. Therefore, the City is now responsible for property maintenance associated with these assets. Therefore, this item is not an enforceable obligation and is not eligible for Other Funds funding.

During our review, Finance determined the Agency possesses funds that should 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. As the Agency no longer has Property Maintenance and Legal Costs associated with assets, obligations, and property, Other Funds are now available totaling \$10,509.

Therefore, the funding source for the following item has been reclassified to Other Funds and in the amount specified below:

- Item No. 6 – Fluidmaster Owner Participation Agreement in the amount of \$194,760. The Agency requests \$40,000 from RPTTF; however, Finance is reclassifying \$10,509 to Other Funds. This item is an enforceable obligation for the ROPS 15-16A period. However, the obligation does not require payment from property tax revenues and the Agency now has \$10,509 in available Other Funds. Therefore, Finance is approving RPTTF in the amount of \$29,491 and the use of Other Funds in the amount of \$10,509, totaling \$40,000.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 15-16A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2014 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 review of the Agency's self-reported prior period adjustment.

Except for the items denied in whole or in part, or the item that has been reclassified, Finance is not objecting to the remaining items listed on your ROPS 15-16A. The Agency's maximum approved RPTTF distribution for the reporting period is \$2,323,400 as summarized in the Approved RPTTF Distribution table below:

Approved RPTTF Distribution	
For the period of July through December 2015	
Total RPTTF requested for non-administrative obligations	2,522,810
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations on ROPS	\$ 2,647,810
Total RPTTF requested for non-administrative obligations	2,522,810
<u>Denied Item</u>	
Item No. 14	(50,000)
Item No. 32	(49,491)
	(99,491)
<u>Reclassified Items</u>	
Item No. 6	(10,509)
Total RPTTF authorized for non-administrative obligations	\$ 2,412,810
Total RPTTF requested for administrative obligations	125,000
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 2,537,810
ROPS 14-15A prior period adjustment	(214,410)
Total RPTTF approved for distribution	\$ 2,323,400

Please refer to the ROPS 15-16A 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, 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 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 Danielle Brandon, Analyst, at (916) 445-3274.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Ms. Michelle Bannigan, Assistant Finance Director, City of San Juan Capistrano
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office