



November 13, 2015

Mr. Bill Manis, Deputy City Manager
San Bernardino City
300 North D Street, 6th Floor
San Bernardino, CA 94218

Dear Mr. Manis:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m) (1) (A), the San Bernardino City Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule for the period January 1 through June 30, 2016 (ROPS 15-16B) to the California Department of Finance (Finance) on September 30, 2015. Finance has completed its review of the ROPS 15-16B.

Based on a sample of line items reviewed and application of the law, Finance made the following determinations:

- Item No. 6 – 2002A Tax Allocation Bonds (TAB) debt service payment in the amount of \$177,725 has been adjusted. At the Agency's request, Finance reduced the amount by \$95,000. Therefore, Finance approves \$82,725 (\$177,725 - \$95,000) in Redevelopment Property Tax Trust Funds (RPTTF) for this item this ROPS period.
- Item No. 8 – 2005A TAB debt service payment in the amount of \$391,424 has been adjusted. It is our understanding the Agency requested the incorrect amount for this item and has requested an increase of \$502,967. Therefore, Finance approves \$894,391 (\$391,424 + \$502,967) in RPTTF for this item this ROPS period.
- Item No. 9 – 2005B TAB debt service payment in the amount of \$208,773 has been adjusted. It is our understanding the Agency requested the incorrect amount for this item and has requested an increase of \$123,865. Therefore, Finance approves \$332,638 (\$208,773 + \$123,865) in RPTTF for this item this ROPS period.
- Item No. 82 – Debt Service Reserve Fund (DSRF) Replenishment in the amount of \$4,849,838. Finance continues to reclassify the funding source for this item to Other Funds.

During the July through December 2013 period (ROPS 13-14A) Finance approved \$6,408,144 in RPTTF funding for this item. Finance authorized \$17,569,239 in RPTTF funds for ROPS 13-14A enforceable obligations, and applied a ROPS II Prior Period Adjustment (PPA) in the amount of \$5,876,914, resulting in \$11,692,325 in RPTTF funds approved for distribution, which was fully distributed by the San Bernardino County Auditor-Controller (CAC). The Agency also received \$510,467 in RPTTF funds for

administrative costs. Consequently, sufficient RPTTF funding was available to replenish the required reserves for the ROPS 13-14A period, including the funding that is available from the PPA of \$5,876,914.

Through an email dated April 4, 2014, the Agency contends that the ROPS II PPA was spent on other obligations; therefore, it is impossible to fund the DSRF with funds that no longer exist because the Agency has cash-flow problems.

The items on which the funds were spent were not approved by Finance; therefore, the funds should be available for expenditure. 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.

Also, HSC section 34183 (a) (2) explicitly requires debt service payments to be made first, followed by revenue bonds (to the extent revenues are insufficient to cover the payments due), and all other obligations, if sufficient RPTTF funding remains.

Additionally, HSC section 34171 (d) (1) (A) permits reserves to be held only when required by the bond indenture, or when the next property tax allocation will be insufficient to pay the next bond payment due in the following half of the fiscal year. Therefore, to the extent the Agency has not been funding approved enforceable obligations in this order; the Agency is in direct violation of the law.

As such, the Agency should reverse those non-debt service transactions that were either not approved by Finance or subordinated to the Agency's debt service payments. Once corrected, the Agency should return the funding to each DSRF. Therefore, Finance reclassifies funding for this item from RPTTF to Other Funds.

- Item No. 87 – Carousel Mall Past Due Property Tax in the amount of \$1,075,248. Finance continues to deny this item. The Agency's request consists of past due property taxes for nine parcels for tax years 2009, 2010, and 2012. The Agency acquired the property through a Purchase Money Note dated May 3, 2010, when the former owner defaulted.

The Agency contends this item only represents taxes incurred before the former Redevelopment Agency (RDA) acquired the Carousel Mall through a foreclosure process. These taxes became an obligation of the former RDA when it acquired the Carousel Mall by foreclosure in February 2011; consequently, this obligation became the obligation of the Agency when the Agency recovered the Carousel Mall site from the San Bernardino Economic Development Corporation (SBEDC) on December 17, 2014.

Finance approved OB Resolution No. SBOB/2013-04 approving the Agency's acceptance of the assets back from SBEDC through our determination letter dated March 13, 2014. However, the Agency did not provide any documentation to support the amount claimed. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 96 – Reimbursement Agreement for Debt Service on the 1999 Certificates of Participation, total obligation in the amount of \$6,306,046, \$424,795 requested for ROPS 15-16B, is not allowed. According to the Agency, the reimbursement amount is comprised of \$123,063 and \$301,732, totaling \$424,795, which must be carried-forward

from ROPS 15-16A to ROPS 15-16B. The carry-forward amount could not be paid on ROPS 15-16A due to an RPTTF shortfall during ROPS 15-16A. However, the Agency did not provide sufficient documentation to support the amounts claimed. To the extent the Agency can provide a debt service payment schedule or other documentation to support the amount requested, this item may be eligible for funding on future ROPS. Therefore, while this item is an enforceable obligation, it is not eligible for RPTTF funding on this ROPS.

- Item No. 127 – CMB-Export Notes in the amount of \$8,000,000 is not allowed. It is our understanding this item represents the principal repayment portion of the 2010 EB-5 Notes with a maturity date of October 1, 2016. However, the 2010 EB-5 Notes will be subsumed by the 2015 Refunding TABs, which will consist of refinancing the 1998B, 2002, 2002A, and 2006 TABs, and the 2010 and 2011 Notes.

Finance approved the 2015 Refunding TABs via OB Resolution No. SBOB 2015-05 on July 24, 2015. According to the Agency, the 2015 Refunding TABs are slated to be refunded next month. Therefore, funding for this item is no longer necessary, and this item is not eligible for RPTTF funding on this ROPS.

- Item No. 128 – Tax Liability Due for 1998B TAB in the amount of \$3,500,000 has been adjusted. This item is a tax liability due to the US Internal Revenue Service (IRS) resulting from the 1998B TABs, which were 'advanced refunded' three times instead of the two allowable 'advanced refunding's' for that bond issue.

The requested amount is the maximum calculated penalty pursuant to the IRS Voluntary Closing Agreement Program. However, based on a new development, the IRS derived a new method of calculating the penalty, and the final settlement payment to the IRS is now expected not to exceed \$1,400,000. Therefore, Finance approves \$1,400,000 (\$3,500,000 - \$2,100,000) in Bond Proceeds for this item this ROPS period.

Pursuant to HSC section 34186 (a) (1), the Agency was required to report on the ROPS 15-16B form the estimated obligations versus actual payments (prior period adjustment) associated with the January through June 2015 period (ROPS 14-15B). HSC section 34186 (a) (1) also specifies the prior period adjustment self-reported by the Agency is subject to review by the county auditor-controller (CAC). Proposed CAC adjustments were not received in time for inclusion in this letter; therefore, the amount of RPTTF approved in the table below only reflects the Agency's self-reported prior period adjustment.

In addition, Finance noted the Agency's expenditures exceeded Finance's authorization for the following items on the ROPS 14-15B prior period adjustment worksheet:

- Item Nos. 10, 13, 38, and 119, Other Funds totaling \$2,044,243.

Per HSC section 34177 (a) (3), only those payments listed on a ROPS may be made by the Agency from the funds specified on the ROPS up to the amount authorized by Finance. HSC sections 34177 (a) (4) and 34173 (h) (1) provide mechanisms when Agency payments must exceed the amounts authorized by Finance. Please ensure the proper expenditure authority is received from your oversight board and Finance prior to making payments on enforceable obligations.

Except for the items denied in whole or in part, or reclassified, Finance is not objecting to the remaining items listed on your ROPS 15-16B. If you disagree with Finance's determination with respect to any items on your ROPS 15-16B, except for those items which are the subject of litigation disputing Finance's previous or related determinations, 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 \$12,385,909 as summarized in the Approved RPTTF Distribution table below:

Approved RPTTF Distribution	
For the period of January through June 2016	
Total RPTTF requested for non-administrative obligations	24,750,672
Total RPTTF requested for administrative obligations	742,521
Total RPTTF requested for obligations on ROPS 15-16B	\$ 25,493,193
RPTTF adjustment to non-administrative obligations	
Item No. 8	502,967
Item No. 9	123,865
Total RPTTF adjustments	\$ 626,832
Total RPTTF requested for non-administrative obligations	25,377,504
<u>Denied Items</u>	
Item No. 6	(95,000)
Item No. 87	(1,075,248)
Item No. 96	(424,795)
Item No. 127	(8,000,000)
	(9,595,043)
<u>Reclassified Item</u>	
Item No. 82	(4,138,810)
	(4,138,810)
Total RPTTF authorized for non-administrative obligations	\$ 11,643,651
Total RPTTF requested for administrative obligations	742,521
Total RPTTF authorized for administrative obligations	\$ 742,521
Total RPTTF authorized for obligations	\$ 12,386,172
ROPS 14-15B prior period adjustment	(263)
Total RPTTF approved for distribution	\$ 12,385,909

On the ROPS 15-16B form, the Agency reported cash balances and activity for the period January 1 through December 31, 2015. Finance will perform a review of the Agency's self-reported cash balances on an ongoing basis. Please be prepared to submit financial records and bridging documents to support the cash balances reported upon request. If it is determined the Agency possesses cash balances that are available to pay approved obligations, HSC section 34177 (l) (1) (E) requires these balances be used prior to requesting RPTTF.

Please refer to the ROPS 15-16B schedule used to calculate the total RPTTF approved for distribution:

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

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, 2016. This determination only applies to items when 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 ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if it was not denied on this ROPS or a preceding ROPS. The only exception is for items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of Final and Conclusive items 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 available prior to the enactment of the redevelopment dissolution statutes. 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.

Please direct inquiries to Nichelle Thomas, Supervisor, or Medy Lamorena, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Ms. Lisa Connor, Project Manager, San Bernardino City
Ms. Linda Santillano, Property Tax Manager, San Bernardino County