DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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December 17, 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

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 13, 2015. Pursuant to Health and Safety Code (HSC) section 34177 (m), the San Bernardino City Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16B) to Finance on September 30, 2015, for the period of January 1 through June 30, 2016. Finance issued a ROPS determination letter on November 13, 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 November 30, 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. 82 – Debt Service Reserve Fund (DSRF) Replenishment in the amount of $4,138,810. Finance no longer reclassifies this item to Other Funds and increases this item by $920. During the January through June 2014 (ROPS 13-14B) and the July through December 2014 (ROPS 14-15A) periods, Finance approved this item from Other Funds, which was related to the prior period adjustment (PPA) that was available from the July through December 2013 period (ROPS 13-14A) review. During the Meet and Confer process, the Agency contended that the Other Funds were related to PPA amounts that have already been expended on other enforceable obligations as approved by Finance. Finance confirmed that the Other Funds were related to the PPA and has now confirmed that the PPA amounts have been reported as fully expended on other enforceable obligations. The Agency also provided the Holdings Report dated December 1, 2015, to support the current balances for each DSRF account. The current shortfall in the DSRF accounts totals $4,139,730. Therefore, Finance approves $4,139,730 from the Redevelopment Property Tax Trust Fund (RPTTF).

  Once again, Finance notes that 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. As such, the funds requested to replenish each DSRF account should be transferred upon receipt to the bond trustee(s) prior to making any other payments on approved ROPS 15-16B items. Any requests to fund this item again in future ROPS periods will be denied as Finance has now approved funding for this item on four separate ROPS.

However, due to the Agency's gross mismanagement of funds received in prior ROPS periods, the Agency has repeatedly chosen to directly violate the law and either fund items not approved by Finance or not fund approved enforceable obligations in the order prescribed in statute. Specifically, the shortages in the DSRF accounts began when the Agency paid unallowable obligations in the July through December 2012 period (ROPS II) period. During ROPS II, Finance approved $12,857,031 from the RPTTF and the Agency received $11,165,764. Of the approved amount, debt service totaled $9,930,335, which was $1,235,429 less than the actual distribution. As such, the Agency should not have used bond reserves to make debt service payments because sufficient funding was received to cover all debt service payments for that period. Pursuant to HSC section 34183 (a) (2) (A) the Agency was required to make bond payments the first priority for payment from distributed RPTTF; however, the Agency instead chose to pay items not approved by Finance and allowed their bonds to go into technical default by having the trustee pay the debt service due from the DSRF accounts.

During the ROPS 13-14A, Finance approved $6,408,144 in RPTTF funding for this item. In total, Finance approved $17,569,239 in RPTTF funds for ROPS 13-14A enforceable obligations, and applied a prior period adjustment (PPA) from ROPS II 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). Consequently, sufficient RPTTF funding was available to replenish the required reserves for the ROPS 13-14A period, including the funding that was available from the PPA of $5,876,914. However, the Agency, once again, chose to violate the law and fund other items first.

- Item No. 87 – Carousel Mall Past Due Property Tax in the amount of $1,075,248. Finance continues to deny $177,333 of 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, Finance initially denied this item because the Agency did not provide any documentation to support the amount claimed.

  During the Meet and Confer process, the Agency provided printouts from the San Bernardino County Tax Assessor on the amounts due for nine parcels of the Carousel

Mall property. The amounts were split between secured and unsecured property tax bills. Based on information on the printouts and the San Bernardino County Tax Assessor website, an unsecured property tax bill is the responsibility of the owner at the time of the bill, not the current owner. Therefore, $897,915 related to secured property tax bills is an enforceable obligation and $177,333 ($1,075,248 - $897,915) related to unsecured property tax bills 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 (COP) in the amount of $424,795 was not allowed. Finance no longer denies this item. 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, Finance initially denied this item because the Agency did not provide sufficient documentation to support the amounts claimed.

  During the Meet and Confer process, the Agency contended that in order to pay off the 2009 EB-5 Note, the City of San Bernardino (City) agreed to postpone receipt of its reimbursement in the amount of $301,732. Based on a review of the various funding sources and items approved to pay the 2009 EB-5 Note, the Agency had a shortfall in funding in the amount of $301,732 related to this item in ROPS 15-16A. Additionally, Finance verified the amount due for the ROPS 15-16B period on the portion of the COP related to the South Valley Lease and 201 North E Street Lease is $123,063. Therefore, Finance approves $424,795 from the RPTTF for this item.

- Item No. 127 – CMB-Export Notes in the amount of $8,000,000 was not allowed. Finance continues to deny this item. 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, Finance denied this item because 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.

  During the Meet and Confer process, the Agency contended that this item would be needed if Item No. 82 were to be denied. Since Finance is approving Item No. 82, funding for this item is no longer necessary, and this item is not eligible for RPTTF funding on this ROPS.

In addition, per Finance's letter dated November 13, 2015, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- 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 RPTTF funding 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. 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. The Agency's maximum approved RPTTF distribution for the reporting period is $17,848,349 as summarized in the Approved RPTTF Distribution table on the next page:

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	**$**	**25,493,193**
RPTTF adjustment to non-administrative obligations		
Item No. 8		502,967
Item No. 9		123,865
Item No. 82		920
Total RPTTF adjustments	**$**	**627,752**
Total RPTTF requested for non-administrative obligations		**25,378,424**
Denied Items		
Item No. 6		(95,000)
Item No. 87		(177,333)
Item No. 127		(8,000,000)
		(8,272,333)
Total RPTTF authorized for non-administrative obligations	**$**	**17,106,091**
Total RPTTF requested for administrative obligations		**742,521**
Total RPTTF authorized for administrative obligations	**$**	**742,521**
Total RPTTF authorized for obligations	**$**	**17,848,612**
ROPS 14-15B prior period adjustment		(263)
Total RPTTF approved for distribution	**$**	**17,848,349**

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

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 Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-3274.

Sincerely,

JUSTYN HOWARD
Program Budget Manager

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