



December 18, 2012

Ms. Ruth Davidson-Guerra
Assistant Community Development Director
150 North Third Street
Burbank, CA 91502

Dear Ms. Davidson-Guerra:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 15, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Burbank Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 31, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 15, 2012. 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 28, 2012.

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. 22 and 23 – City loans totaling \$27 million that were entered into in 1985 are not enforceable obligations. Finance continues to deny the items. Finance denied the items as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. The Agency was created in 1970; therefore, these items are not enforceable obligations. The Agency contends the items are enforceable obligations because the former RDA was established April 12, 1970, and the Loan Agreement was entered into on September 29, 1970 and was amended in 1972, 1985, and 2003. Per HSC section 34171 (d) (2), loan agreements entered into between the RDA and the city, county, or city and county that created it, within two years of the date of creation of the RDA, may be deemed to be enforceable obligations. The original loan agreement was entered into within the first two years of the date of creation; however, various advances or loans were made after the first two years of creation. Furthermore, the agreement does not specify dollar amounts to be loaned or advanced. Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the

former RDA are not enforceable obligations. Therefore, the items are currently not enforceable obligations.

- Item Nos. 28, 32, 33, 35, 36, and 38 through 40 – Successor housing entity administrative costs totaling \$281,162. Finance continues to deny the items. Finance denied the items as HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations and housing assets shall be transferred to the city, county, or city and county. The administrative costs associated with the housing functions are the responsibility of the housing successor. The Agency contends the items are enforceable obligations because the costs are associated with the successful completion and/or fulfillment of third party contracts, obligations, and/or covenants. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations and housing assets...shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of monitoring obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1-26/AB1484. Therefore, the items are not enforceable obligations and not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item Nos. 21 and 37 – Although enforceable, the requested items totaling \$19,193 are considered general administrative expenses and have been reclassified. Finance continues to reclassify the items as administrative costs. The Agency contends the items are enforceable obligations; however, no additional documentation was provided to show that the items do not fall into any of the following categories that are specifically excluded from the administrative cap as defined by HSC section 34171 (b):
 - Any litigation expenses related to assets or obligations.
 - Settlements and judgments.
 - The costs of maintaining assets prior to disposition.
 - Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$8,159,617 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 10,897,470
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 21*	3,035
Item 22	30,375
Item 23	2,984,958
Item 28	24,118
Item 32	2,474
Item 33	2,895
Item 35	371
Item 36	434
Item 37*	16,158
Item 38	7,421
Item 39	7,421
Item 40	22,386
Total approved RPTTF for enforceable obligations	<u>\$ 7,795,424</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>364,193</u>
Total RPTTF approved:	\$ 8,159,617

*Reclassified as administrative cost

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

The amount available from the RPTTF is the same as the 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.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2013. 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 questioned on this ROPS or a preceding ROPS.

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Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Maribel Leyland, Housing Authority Manager, City of Burbank
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office