



December 18, 2012

Mr. Chuck McBride, Finance Director
City of Carlsbad
1635 Faraday
Carlsbad, CA 92009

Dear Mr. McBride:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 13, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Carlsbad Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 30, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 13, 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 Tuesday, October 13, 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 those specific items being disputed.

- **Item No. 2 – City of Carlsbad loan in the amount of \$18.8 million. At this time, Finance continues to deny this item. Finance denied this item as an enforceable obligation as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA are not enforceable. Section 34171 (d) (2) also adds, 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 Agency contends the item is an enforceable obligation because the outstanding loan amounts are out of a loan agreement entered into within two years of the creation of the RDA. Finance finds the loan agreement was entered into within the first two years of the date of creation of the RDA; however, funds were not provided until 1981, which is after the first two years of creation in 1976. Furthermore, the agreement does not specify dollar amounts to be loaned or advanced or specific repayment terms; in fact, the agreement states in Section (II)(C), "The Agency shall reimburse the City for such costs only if funds become available." Section (V)(B) states, "... with money appropriated by the City Council to the Agency as a loan to be repaid upon such terms as City Council may provide." Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply and this item is denied.**

- Item No. 3 – New Village Arts building improvements in the amount of \$1.5 million. Finance continues to deny this item. The lease agreement provides for up to \$1.5 million in exterior building improvements. However, there are no expenditure contracts executed to make the improvements and HSC section 34163 (b) prohibits an Agency from entering into a contract with any entity after June 27, 2011. Additionally, the agreement provides that decisions related the exterior improvements are to be made by the Agency in consultation with New Village Arts. This requires discretionary decision-making that is no longer afforded to the Agency. Further, it is our understanding that New Village Arts has not met a specific condition outlined in the agreement. As such, the Agency could not be obligated to move forward with the building improvements. Finally, HSC 34177 (h) requires the Agency to expeditiously wind down the affairs of the former redevelopment agency. As such, we note that the Agency may terminate the lease within two years notice or allow it to expire without penalty or recourse by the lessee on June 30, 2013.
- Item No. 4 – Parking leases in the amount of \$49,587. During the meet and confer, the Agency decided to no longer contest this item.

Chapter 26, Statutes of 2012 (AB 1484) allows the Successor Agency to repay valid City loans for the former Redevelopment Agency (RDA). This requires the Agency to receive a Finding of Completion from Finance. To receive a Finding of Completion the Successor Agency must successfully complete the following requirements:

- Complete two Due Diligence Reviews and remit the unencumbered balances identified during those reviews to the county auditor-controller for distribution to the local taxing entities.
- Pay the full amount of the July True-Up demand as calculated by the county auditor-controller for distribution to the local taxing entities.

Or

- Pay the full amount upon a final judicial determination of the amounts due for these processes and confirmation that those amounts have been paid to the county auditor-controller for distribution to the local taxing entities.

Once these requirements have been met, Finance will issue a Finding of Completion to a Successor Agency, which will, pursuant to Health and Safety Code (HSC) Section 34191.4 (c), allow a Successor Agency to repay valid City loans made for redevelopment purposes.

The Agency's maximum approved RPTTF distribution for the reporting period is: \$352,333 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 1,893,381
Less: Six-month total for items denied	
Item 2	641,255
Item 3	1,000,000
Item 4	24,793
Total approved RPTTF for enforceable obligations	\$ 227,333
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	125,000
Total RPTTF approved:	\$ 352,333

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.

Please direct inquiries to Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,


STEVE SZALAY
Local Government Consultant

cc: Ms. Debbie Fountain, Housing and Neighborhood Services Director, City of Carlsbad
Mr. Juan Perez, Senior Auditor and Controller Manager, San Diego County
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, San Diego County
California State Controller's Office