



REVISED

December 20, 2012

Ms. Kristen Petersen, Assistant City Manager
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

Dear Ms. Petersen:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 12, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Duarte Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 28, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 12, 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 October 31, 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 item being disputed.

- Item 9 – Development and Disposition Agreement (DDA)/Option Agreement (Option) in the amount of \$1.2 million between the Agency and Southern California Presbyterian (Optionee). Finance no longer denies this item. Finance previously denied this item because the DDA did not appear to be entered during the Option period. Finance notes the provision referenced in the Option for time extension is contingent on, "if, on or before, January 27, 2012, Optionee receives notice from the United States Department of Housing and Urban Development ("HUD") that Optionee's application for a fund reservation ... for the acquisition of the Property... has been approved, Optionee shall have the right by delivery of written notice to the Agency to extend the Option Period for an additional (6) six months to July 27, 2012." Based on Finance's reading of the Option, it appeared that the approval was not obtained by that date. However, today Finance learned that on December 18, 2012, HUD sent an email explaining that HUD had provided the award on November 16, 2011. Thus, while this email had not been provided prior to the original determination dated December 18, 2012, Finance is now of the view that based on available information, the Option was timely exercised. Finance notes, while the Agency requested RPTTF funding for this item, the Agency also requested to retain Low and Moderate Income Housing Funds (LMIHF) for this same item. Further, Finance notes the Agency has available LMIHF; therefore, for all the reason listed above, Finance determines this item is an enforceable obligation eligible for LMIHF funding.

Since Item 9 is no longer denied, the staff, legal, and engineering costs associated with this project are necessary. Therefore, Item 10 totaling \$41,000 is no longer denied as an enforceable obligation. Finance notes, while the Agency requested RPTTF funding for this item, the Agency also requested to retain Low and Moderate Income Housing Funds (LMIHF) for this same item. Further, Finance notes the Agency has available LMIHF; therefore, for all the reason listed above, Finance determines this item is an enforceable obligation eligible for LMIHF funding.

- Item No. 11 – Housing Authority Obligation in the amount of \$16.9 million. Finance continues to deny this item. Finance previously denied this item because the grant agreement states the obligation was to be funded with housing set aside funds and the requirement to set aside 20 percent of RDA tax increment for low and moderate income housing purposes ended with the passing of the redevelopment dissolution legislation. As provided in the Master Financing and Grant Agreement entered into between the City of Duarte (City), the Duarte Housing Authority (Authority) and the former RDA of the City of Duarte states in the first recital that “the City established the Authority”. In addition, Resolution RA-390 states in Section 2 that the “Agency shall provide support staff services associated with or required by the Housing Authority.” The agency contends the Authority is not a part of the City; however, HSC section 34167.1 (b) states factors to consider in determining that an entity is controlled by the City and therefore included in the definition of a City include subsection (4) the City was involved in the creation or formation of the entity and subsection (6) the City provides administrative and related business support for the entity . Therefore, this item is an agreement entered into by the City and the former RDA and is not an enforceable obligation. Per HSC section 34171 (d) (2), agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA are not enforceable.
- Item No. 15 through 17 – Promissory notes with the City totaling \$3.9 million. Finance continues to deny these items for the reasons provided in Finance’s letter dated October 12, 2012. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or 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 established in 1972 and the loans were entered into in 1987 and 1991 – well after the first two years of the RDA’s creation; therefore, these items are not enforceable obligations at this time. Upon receiving a Finding of Completion from Finance, HSC section 34191.4 (b) may cause these items to be enforceable in future ROPS periods.

The Agency’s maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$4,971,057 as summarized below:

| Approved RPTTF Distribution Amount | |
|---|---------------------|
| For the period of January through June 2013 | |
| Total RPTTF funding requested for obligations | \$ 7,696,057 |
| Less: Six-month total for item(s) denied or reclassified as administrative cost | |
| Item 9 * | 1,200,000 |
| Item 10 * | 41,000 |
| Item 11 | 1,734,000 |
| Item 15 | 0 |
| Item 16 | 0 |
| Item 17 | 0 |
| Total approved RPTTF for enforceable obligations | \$ 4,721,057 |
| Plus: Allowable RPTTF distribution for administrative cost for ROPS III | 250,000 |
| Total RPTTF approved: | \$ 4,971,057 |

* The Agency requested these items be paid from LMIHF; therefore, they are removed from the total requested for RPTTF.

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, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Dan Slater, City Attorney, City of Duarte
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office