



December 18, 2012

Mr. Gregory Wade, Deputy Director
City of Imperial Beach
825 Imperial Beach Boulevard
Imperial Beach, CA 91932

Dear Mr. Wade:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 6, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Imperial Beach Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 22, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 6, 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 16, 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 3 and 4 – Tax Allocation Bond reserves in the amount of \$1.04 million. Finance no longer object to the items. The Agency is requesting enough Redevelopment Property Tax Trust Fund (RPTTF) funding to ensure they have sufficient resources to pay their debt service obligations. The Agency incurs semi-annual debt service payments made 5 days before June 1 and 5 days before December 1 of each year. The December payment is interest only and the June payment is principal and interest. This request would fully fund the debt service payment for the entire calendar year utilizing the January distribution period. To the extent, the Agency does not receive a sufficient RPTTF distribution in January they may list the difference on the subsequent ROPS. However, the Agency will have to fully demonstrate any actual shortage.
- Item 5 through 7 – “Housing Loan/Advance...” in the amount of \$2.1 million. Finance continues to deny the items. The Agency could not provide documents to support these items as enforceable obligations. Therefore, these items are not enforceable obligations and not eligible for RPTTF funding. Furthermore, obligations associated with the former RDA's previous statutory housing obligations are not enforceable obligations. 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 statutory 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.

- Item 8 – “Housing Agreement” in the amount of \$90,000. Finance continues to deny this item. This agreement is a contract with Imperial Beach Housing Authority and the City of Imperial Beach. Since the Agency is not a party to this agreement, the item is not an enforceable obligation eligible for RPTTF funding. Additionally, maintenance and/or administrative costs associated with the former RDA’s previous housing functions are not enforceable obligations. Upon the transfer of the former RDA’s housing functions to the new housing entity, Health & Safety Code 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 any on-going maintenance and administrative costs. To conclude that such costs should be on-going enforceable obligations of the successor agency would require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1-26/AB1484.
- Item 9 and 10 – “Clean & Green Program” and “Habitat Project” in the amount of \$913,000 requested to be funded with bond proceeds. The Agency contends that they have followed the requirements outlined in HSC 34176 (g) (1) (A), which allows the housing successor to the former RDA to designate the use and commitment of excess housing bond proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the bond covenants. HSC section 34176 (g) (1) (A) also requires that the proceeds requested for use shall be derived from indebtedness obligations that were issued for the purposes of affordable housing prior to January 1, 2011, and were backed by the Low and Moderate Income Housing Fund. On July 24, 2012, the successor housing entity notified the Agency of designations and commitments of 2003 housing bond proceeds and requested the item be listed on the ROPS III. The following required conditions are met; therefore, this item is considered an enforceable obligation:
 - The housing entity’s bond counsel provided written confirmations that the use of the bond proceeds is consistent with the bond covenants. Based on review of the confirmations and other documents provided by the housing entity, it appears that the use of bond proceeds is consistent with the bond covenants.
 - The Agency’s financial records indicate that there are sufficient funds available.
- Item 12 – “City Service Agreement” in the amount of \$240,000 is a loan between the Agency and its creator. Finance continues to deny the item. HSC section 34171 (d) (2) states that agreements between the city that created the redevelopment agency (RDA) and the Agency are not enforceable. This item is not an enforceable obligation and not eligible for RPTTF funding. Upon receiving a Finding of Completion from Finance, HSC section 34191.4 (b) may cause these items to be enforceable in future ROPS periods.
- Item 17 – Insufficient RPTTF totaling \$533,092. It is our understanding that this amount represents the amount of funding that the Agency used from their restricted bond proceeds in order to make required debt service payments. This is a request to replenish those bond proceeds. The need to dip into bond proceeds resulted from an insufficient RPTTF distribution. We note that during the ROPS I and II period all items

reported by the Agency were approved for expenditure. According to information provided by the County Auditor-Controller for the ROPS II period, the Agency received a RPTTF distribution totaling \$1,388,689. The Agency had approved ROPS II expenditures totaling \$2,015,215. The Agency may list the difference between the approved expenditures amounts, which must first be reconciled for estimated payments versus actual bills received/payment needs as compared to the authorized expenditure level, and the distributed RPTTF amount on their subsequent ROPS. Therefore, this item is approved. Additionally, Finance is revising this item upward to \$626,526 to reflect the full shortfall in RPTTF from the ROPS II period. This will allow the Agency to pay the approved obligations that went unfunded during the ROPS II period, including replenishing their previous use of restricted bond proceeds.

- Administrative costs funded by RPTTF exceed the allowance by \$201,458. HSC section 34171(b) limits administrative costs to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater for the fiscal year. As a result, the Agency's administrative cost allowance is capped at \$250,000 for the fiscal year. In the period July through December of 2012, \$100,948 of administrative allowance was used, leaving \$149,052 available for the January through June 2012 period. Therefore, \$201,458 of the claimed \$350,510 is denied. Item 13 continues to be reclassified as an administrative cost and used to arrive at the denied allowance. This item does not fit into one of the areas specifically carved out from the administrative cost cap. Therefore it continues to be reclassified.

HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. However since Item 13 relates to general legal representation and not specifically to bringing or contesting a legal action in court, it is considered an administrative expense.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$3,541,913 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 5,774,108
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 5	369,607
Item 6	872,273
Item 7	822,801
Item 8	90,000
Item 12	240,000
Item 13*	80,000
Item 17	(93,434)
Total approved RPTTF for enforceable obligations	\$ 3,392,861
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	149,052
Total RPTTF approved:	\$ 3,541,913
*Reclassified as an Administrative Cost.	

Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 1,388,690
Total RPTTF for the period January through June 2013	1,723,454
Total RPTTF for fiscal year 2012-13:	\$ 3,112,144
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	250,000
Administrative allowance for the period of July through December 2012	100,948
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 149,052

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,



FOR
STEVE SZALAY
Local Government Consultant

cc: Mr. Gary Brown, Executive Director, City of Imperial Beach
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, County of San Diego
California State Controller's Office