



December 18, 2012

Ms. Donna Mullally, Manager of Fiscal Services
City of Irvine
1 Civic Center Plaza
Irvine, CA 92623

Dear Ms. Mullally:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 14, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Irvine 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 14, 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 27, 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 No. 1 – Amended Development Agreement totaling \$1.4 billion. Finance continues to deny the item. Finance denied the item as the former RDA is neither a party to the contract nor responsible for payment of the contract. The Agency contends the item is an enforceable obligation because the Amended Development Agreement is an agreement entered into and executed by and among the City of Irvine, the former RDA, and Heritage Fields, El Toro, LLC (Heritage Fields), which requires the former RDA to construct a park at the former site of the Marine Corps Air Station (MCAS), El Toro. However, HSC section 34177.3 (a) states that successor agencies shall lack the authority to, and shall not, create new enforceable obligations or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011. Currently, there are no contracts in place and therefore, no enforceable obligations exist prior to June 28, 2011. While the Development Agreement was entered into prior to June 28, 2011 by the former RDA, it is not specific as to the total amount to be committed to the project. Therefore, this item is not an enforceable obligation and not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item No. 2 – Affordable Housing Grant Agreement totaling \$731 million. Finance continues to deny the item. Finance denied the item as HSC section 34177(d) requires that all unencumbered balances in the Low and Moderate Income Housing Fund (LMIHF) be remitted to the county auditor controller for distribution to the taxing entities.

The Agency contends the item is an enforceable obligation because the Agreement encumbers all former Housing Set-Aside funds for the development of affordable housing and these funds are to be used by a private non-profit organization, the Irvine Community Land Trust, for the development of affordable housing. However, no encumbrances were made from the LMIHF and transferred on the Housing Asset Transfer Form – Exhibit C. Furthermore, the Agreement was to use Housing Set Aside Funds, which no longer exists. Therefore, this item is not eligible for RPTTF funding.

- Items Nos. 9, 11, and 12 were reclassified as administrative costs. Finance no longer reclassifies Item 9 as an administrative cost; however, Finance continues to reclassify Items 11 and 12 as administrative costs. The Agency did not object to Item 11. However, the Agency contends Items 9 and 12 are enforceable obligations because they are required by HSC Section 34179.5 (a) to employ a licensed accountant to conduct two due diligence reviews and the Agency retained the services of legal counsel to assist with its efforts to conduct the work of winding down the redevelopment agency. 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.

Item 9 is related to the due diligence reviews required by HSC section 34179.5. Therefore, Item 9 is an enforceable obligation outside of the administrative cap.

Item 31 relates to general legal representation and not specifically to bringing or contesting a legal action in court; therefore, it is considered an administrative cost.

Although this reclassification increased administrative costs to \$224,500, the administrative cost allowance has not been exceeded.

The Agency's maximum approved RPTTF distribution for the reporting period is: \$494,500 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 18,701,464
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 1	17,562,626
Item 2	644,338
Item 11*	100,000
Item 12*	124,500
Total approved RPTTF for enforceable obligations	\$ 270,000
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	224,500
Total RPTTF approved:	\$ 494,500

*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.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Mark Asturias, Manager of Housing, City of Irvine
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office