DEPARTMENT OF FINANCE

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December 18, 2012

Mr. Donald Parker, Finance Director
City of Montclair
5111 Benito Street
Montclair, CA 91763

Dear Mr. Parker:

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 Montclair 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 November 21, 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. 20 – Rehabilitation Loan Agreement in the amount of $1 million of Low and Moderate Income Housing Fund (LMIHF) and Bond funding. Finance continues to deny this item. Finance denied the item as HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The promissory note provided was executed on July 1, 2011, and therefore the item is not an enforceable obligation. The Agency contends the loan become effective on the date the promissory note was approved on June 20, 2011 as evidenced by the minutes from the joint meeting of the City of Montclair City Council, former RDA, and the Montclair Housing Corporation on June 20, 2011. Although the meeting minutes approved the parties to enter into the promissory note, the agreement itself was not signed and executed by all parties until July 1, 2011. Therefore, this item is not an enforceable obligation per 34163 (b). In addition, this agreement is between the former RDA and the Montclair Housing Corporation. As provided by the City's website, the Montclair Redevelopment Agency formed the Montclair Housing Corporation in 1994 and the trial balance provided by the Agency show the Montclair Housing Corporation's financial information is included with the City of Montclair's financial information. HSC section 34167.1 (a) states the definition of a city includes any reporting entity of the City for the purposes of its comprehensive annual financial report or similar report. Therefore, in

essence, 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. 24 – Employee Costs for $14,041 from the LMIHF. Finance continues to deny this item. Finance denied the item as the use of LMIHF is restricted to encumbered balances and because employee costs are unencumbered costs that are not an enforceable obligation. The Agency contends the requirements for monitoring of housing projects are still in place and the Agency has an existing reimbursement agreement with the City. However, 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, 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 any on-going maintenance and administrative costs. To conclude that such costs should be on-going enforceable obligations of the successor agency is directly contrary to the wind down directive in ABx1-26/AB1484. In addition, HSC section 34177 (d) states that any unencumbered balances of RDA funds are to be remitted to the county auditor-controller for distribution to the taxing entities, including, but not limited to the unencumbered balance of the LMIHF of the former RDA.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is $1,433,517 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013		
Total RPTTF funding requested for obligations	$	1,240,282
Less: Six-month total for item(s) denied or reclassified as administrative cost		
Total approved RPTTF for enforceable obligations	$	1,240,282
Plus: Allowable RPTTF distribution for administrative cost for ROPS III		193,235
Total RPTTF approved:	$	1,433,517

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: Marilyn J. Staats, Director of Redevelopment/Public Works
Ms. Vanessa Doyle, Auditor Controller, County of San Bernardino
California State Controller's Office