



December 18, 2012

Ms. Annie Clark, Senior Financial Analyst  
City of Moreno Valley  
14177 Fredrick Street  
Moreno Valley, CA 92552

Dear Ms. Clark:

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 Moreno Valley 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 5, 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 items being disputed.

- Item No. 15 – Agency Loans 1 and 2 in the amount of \$2.2 million. Finance continues to deny the item at this time. Finance denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency (RDA) and the former RDA are not enforceable obligations. The Agency contends the item is an enforceable obligation because the Oversight Board reapproved Loans 1 and 2. While HSC section 34178 (a) and 34180 (h) authorizes successor agencies to enter or reenter into agreements, any agreement entered or reentered into cannot conflict with the requirements set forth in HSC 34171 (d), as ABx1 26 did not specifically carve out an exception to the definition of an enforceable obligation nor did HSC section 34178 (a) or 34180 (h) not withstand HSC section 34171 (d). Therefore, the Oversight Board had no legal basis to approve an action that directly conflicted with and violated the definition of an enforceable obligation. Even if Finance did not object to the specific Oversight Board actions authorizing the Agency to enter or reenter into agreements, the statute as a whole prohibits such an action from being validated if it conflicts with the definition of an enforceable obligation. Additionally, Finance has clearly defined authority under HSC section 34177 and 34179 (h) to review any items on ROPS to determine whether or not successor agencies are responsible for the obligation listed on their ROPS. Even if an Oversight Board approved an action that created an enforceable obligation, Finance has the authority to

review the enforceable obligation for compliance with HSC section 34171 (d) or for compliance with any other statutory requirements contained in Chapter 26, statutes of 2012 (AB 1484). At no time can an Oversight Board action eliminate Finance's authority to review an enforceable obligation as part of a ROPS review. Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is currently not an enforceable obligation.

- Items 26, 58, and 70 – Various contracts as provided in the table below totaling \$528,571. Finance continues to deny the items at this time. Finance denied the items as the contracts are between the City and various third parties. The Agency contends the City entered contracts on behalf of the former RDA because the former RDA was not permitted to enter contracts. As the former RDA is neither a party to the contract nor responsible for payment of the contract, these line items are not enforceable obligations eligible for bond funding:

| Item | Project Name   | Fund Source | Total Outstanding Debt |
|------|--|-------------|------------------------|
| 26   | Sunnymead Blvd contracted with Harris and Associates       | Bond        | \$176,000              |
| 58   | Nason/SR-160 Bridge contracted with Parsons Transportation | Bond        | 222,571                |
| 70   | Moreno Beach Ramps contracted with Parsons Transportation  | Bond        | 130,000                |
|      | Total Amount   |             | \$528,571              |

However, successor agencies will be eligible to expend bonds issued prior to January 1, 2011, once a finding of completion is received per 34191.4 (c). Those obligations should be reported on a subsequent ROPS.

- The following items, totaling \$20,490,097, had no contracts in place prior to June 27, 2011; therefore, the items were denied as enforceable obligations. Finance continues to deny the items at this time. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011.

| Item | Project Name                   | Fund Source | Total Outstanding Debt |
|------|--------------------------------|-------------|------------------------|
| 46   | Ironwood Ave-Day St/Barclay Dr | Bond        | \$ 73,000              |
| 47   | Ironwood Ave-Day St/Barclay Dr | Bond        | 500,000                |
| 48   | Ironwood Ave-Day St/Barclay Dr | Bond        | 50,000                 |
| 49   | Ironwood Ave-Day St/Barclay Dr | Bond        | 50,000                 |
| 50   | Ironwood Ave-Day St/Barclay Dr | Bond        | 50,000                 |
| 53   | Nason/SR-60 Bridge             | Bond        | 36,000                 |
| 54   | Nason/SR-60 Bridge             | Bond        | 80,000                 |
| 59   | Nason/SR-60 Bridge             | Bond        | 1,947,220              |
| 60   | Nason/SR-60 Bridge             | Bond        | 9,700,000              |
| 61   | Nason/SR-60 Bridge             | Bond        | 145,000                |
| 62   | Nason/SR-60 Bridge             | Bond        | 170,000                |
| 71   | Moreno Beach Ramps             | Bond        | 11,885                 |
| 72   | Moreno Beach Ramps             | Bond        | 797,822                |
| 77   | Moreno Beach Ramps             | Bond        | 6,693,170              |
| 78   | Moreno Beach Ramps             | Bond        | 98,000                 |
| 79   | Moreno Beach Ramps             | Bond        | 88,000                 |
|      | Total Amount                   |             | \$20,490,097           |

However, successor agencies will be eligible to expend bonds issued prior to January 1, 2011, once a finding of completion is received per 34191.4 (c). Those obligations should be reported on a subsequent ROPS.

- Item 11 – Contract for Audit Services in the amount of \$15,000. Finance reclassified this item as an administrative cost. Finance is no longer classifying this item as an administrative cost. The Agency provided additional documentation during the meet and confer process supporting the item as costs for the Due Diligence Review required by ABx1 26 and AB 1484. It is Finance’s position that this mandated audit only be considered an administrative cost so long as the administrative cost cap has not been exceeded. In this case, the administrative cost cap has been exceeded; therefore, this item is an enforceable obligation.
- Items 8, 9, and 12 – Various contracts totaling \$149,000. These items are considered administrative costs and have been reclassified. Finance continues to reclassify these items as administrative costs. The Agency contends the items are enforceable obligations because all of the services are required for implementation of specific projects that are enforceable obligations and are not administrative in nature. However, the legal services for Items 8 and 9 are not related to litigation expenses and the fiscal services, do not fall into any of 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.

Administrative costs exceed the administrative cost allowance by \$129,547. Please see the table below for an explanation on the overage:

|   |           |
|---|-----------|
| Administrative cost cap for fiscal year 2012-13               | \$277,953 |
| Administrative costs claimed for July through December 2012   | 125,000   |
| Administrative costs claimed for January through June 2013 ** | 282,500   |
| Overage   | \$129,547 |

\*\* Includes reclassified items.

The Agency’s maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$7,005,683 as summarized below:

| <b>Approved RPTTF Distribution Amount<br/>For the period of January through June 2013</b> |                     |
|---|---------------------|
| Total RPTTF funding requested for obligations   | \$ 6,927,230        |
| Less: Six-month total for items reclassified as administrative cost                       |                     |
| Item 8  | 36,000              |
| Item 9  | 36,000              |
| Item 12   | 2,500               |
| Total approved RPTTF for enforceable obligations  | <u>\$ 6,852,730</u> |
| Plus: Allowable RPTTF distribution for administrative cost for ROPS III                   | <u>152,953</u>      |
| <b>Total RPTTF approved:</b>  | <b>\$ 7,005,683</b> |
| <b>Administrative Cost Calculation</b>  |                     |
| Total RPTTF for the period July through December 2012                                     | \$ 2,412,358        |
| Total RPTTF for the period January through June 2013                                      | 6,852,730           |
| <b>Total RPTTF for fiscal year 2012-13:</b>   | <b>\$ 9,265,088</b> |
| Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)        | 277,953             |
| Administrative allowance for the period of July through December 2012                     | <u>125,000</u>      |
| <b>Allowable RPTTF distribution for administrative cost for ROPS III:</b>                 | <b>\$ 152,953</b>   |

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: On following page

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cc: Mr. Richard Teichert, Financial & Administrative Services Director, City of Moreno Valley  
Ms. Pam Elias, Chief Accountant Property Tax Division, Riverside County  
Auditor Controller  
California State Controller's Office