



REVISED

January 14, 2013

Mr. Mike Miller, Housing Manager
City of Palmdale
38250 Sierra Highway
Palmdale, CA 93550

Dear Mr. Miller

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 Palmdale 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 No. 52 – Cooperative agreement between the City of Palmdale and the Agency in the amount of \$48 million. Finance continues to deny the items 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 1990 and 1992 Cooperation Agreements between the City and the RDA for the payment of staffing, office and equipment expenses related to the RDA's redevelopment activities and the 2009 City Council approval of an increase in the amount of the annual reimbursement by the RDA were authorized by and for the purpose of implementing a 1975 Cooperation Agreement. The 1975 Cooperation Agreement qualifies for the exception in HSC section 34171 (d) (2) for loan agreements between the City and the RDA entered into within two years of the date of the creation of the RDA. However, the 1990 and 1992 Cooperation Agreements were not entered into within the first two years of the date of creation (the former RDA was established in 1975). 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, the items are currently not enforceable obligations.

- Item Nos. 55 and 56 – Although enforceable, legal services totaling \$132,650 are considered general administrative expenses and have been reclassified. Finance continues to reclassify the items as administrative costs. The Agency contends the items are enforceable obligations because contracts for legal services are expressly authorized as enforceable obligations by HSC sections 34171 (d) (1) (F) and 34177.3 (b) and are thus eligible for payment with Redevelopment Property Tax Trust Fund (RPTTF) to the extent that other funds (including the administrative cost allowance) are not sufficient. Finance agrees that these costs are enforceable obligations; however, they are to be funded from the administrative allowance, which HSC section 34171 (b) limits to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. However, Items 55 and 56 relate to general legal representation and not specifically to bringing or contesting a legal action in court; therefore, they are considered administrative costs.
- Item Nos. 75 through 130 – Housing related obligations totaling \$101 million. Finance no longer objects to Items 75, 76, 80, 84, 95, 108, 115, 116, 117, 122, 123, 126, 127, and 128, continues to deny Item 115 at this time, and continues to deny the remaining items. Finance denied the items as HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. Since the City of Palmdale Housing Authority assumed the housing functions, the operating and administrative costs associated with these functions are the responsibility of the housing successor. Further, the only Low and Moderate Income Housing Fund (LMIHF) encumbrances noted on the Housing Assets Transfer Form, Exhibit C submitted to Finance on August 1, 2012 are related to the Palmdale TOD apartments and the Palmdale Transit Village Townhomes.
 - The Agency contends Items 75 through 81 are enforceable obligations because on May 31, 2007, the former RDA and Palmdale Transit Village Townhomes LLC entered into Disposition and Development Agreement (DDA) No. A-1977 to construct 121 affordable townhome units. The encumbrances from the Low and Moderate Income Housing Fund associated with the items were included for transfer to the housing successor agency on the Housing Asset Transfer form, Exhibit C. Therefore, Items 75, 76, and 80 associated with the encumbrance may be enforceable obligations. Since no funding is currently requested for the items, Finance will continue to review the items on a future ROPS. However, for Items 77, 78, 79, and 81, 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. Therefore, the items are not enforceable obligations.
 - The Agency is not disputing our determination of Items 82, 93, and 109.

- The Agency contends Items 84, 117, 122, 123, 126, 127, and 128 are enforceable obligations because they relate to general operating expenses of the Agency and are expressly authorized by AB 1484. The items identified are allowable under the administrative cost allowance and are no longer being denied.
- The Agency contends Items 83 and 85 are enforceable obligations because Legal Service (Housing) is needed for housing programs and projects and the Consultant Services are to assist Agency staff with the Mid-Point Review report preparation due by December 2012. However, per HSC section 34176 (a) (1), if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets, excluding any amounts on deposit in the LMIHF and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county. So, any costs associated with the housing programs were transferred to the housing successor agency and are now the obligation of the housing successor agency, not the successor agency. Therefore, the items are not enforceable obligations.
- The Agency contends Items 86 through 92 are enforceable obligations because the Mobile Home Rehabilitation Loan place long-term covenants on mobile homes that had received substantial rehabilitation. In order to preserve those covenants, the RDA was required to maintain space rent, pay past due Los Angeles County Property Tax balances for past due personal property taxes of past participants, as well as follow the specific legal process related to the abandonment or conveyance of manufactured housing. However, per HSC section 34176 (a) (1), if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets, excluding any amounts on deposit in the LMIHF and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county. So, any costs associated with the Mobile Home Rehabilitation Loans that were transferred to the housing successor agency are now the obligation of the housing successor agency, not the successor agency. Therefore, the items are not enforceable obligations.
- The Agency contends Items 94 through 106 are enforceable obligations because the RDA approved the Neighborhood Improvement Strategy on May 8, 1996 and subsequently implemented the Neighborhood Improvement Program. The former RDA, under the Neighborhood Improvement Program, created Community Neighborhood Houses within several of the Cities Focus Neighborhoods. Since these services were implemented with an open-ended time-line, the Housing Authority has assumed the responsibility to oversee that certain obligations related to the adopted Strategy are maintained without assuming the fiscal responsibility related to prior commitments of the former RDA. Per HSC section 34176 (a) (1), if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets, excluding any amounts on deposit in the LMIHF and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county. So, any costs associated with the housing programs were transferred to the housing successor agency and are now the obligation of the housing successor agency, not the successor agency. Therefore, the items are not enforceable obligations.

- For Items 94 and 102 through 106, any obligation to pay for continued maintenance of land, utilities, or property assessments were transferred to the housing successor agency as these are “duties and obligations” associated with the housing activities of the former RDA. Therefore, the items are not enforceable obligations.
- For Item 95, based on additional information provided, Finance no longer objects to the item. The promissory note between the former RDA and a third party was executed before June 28, 2011 and is therefore, an enforceable obligation.
- For Item 96, there is no specific requirement in the Owner Participation Agreement for the former RDA to provide project support or oversee the project, nor is there an agreement in place requiring the Agency to pay the costs of supporting or overseeing completion of the project. Therefore, the item is not an enforceable obligation.
- For Items 97 and 98, in the documents provided, there is no obligation to provide on-going fiscal assistance pertaining to maintenance, insurance, and property taxes. Therefore, the items are not enforceable obligations.
- For Item 99, the security contract was entered into by the City, not the former RDA or the Agency, and is a month-to-month basis contract that can be terminated by the City. Since neither the former RDA nor the Agency is a party to the agreement, the item is not an enforceable obligation.
- For Items 100 and 101, based on the documents provided, there is no requirement imposed on the former RDA to provide Sparkletts water or fire extinguishers. Therefore, the items are not enforceable obligations.
- The Agency contends Items 108, 110 through 116, and 118 through 130 are enforceable obligations because they relate to the RDA’s obligations arising from its Housing Program assistance.
 - Items 108, 110, and 111 are for property valuation services, trustee services for properties in default, and affordable housing monitoring. The former Agency has an existing contract with Urban Land Economics dated June 17, 2010, that expires on June 17, 2013. Therefore, Item 108 is an enforceable obligation.

For Items 110 and 111, the former RDA did not have any contracts in place prior to June 27, 2011. Per HSC section 34176 (a) (1), if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets, excluding any amounts on deposit in the LMIHF and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county. So, any costs associated with the housing programs were transferred to the housing successor agency and are now the obligation of the housing successor agency, not the successor agency. Therefore, Items 110 and 111 are not enforceable obligations.

- Items 113 and 114 are pre-existing housing production requirements under statutory provisions of Community Redevelopment Law. 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. Therefore, the items are not enforceable obligations.

- Items 115 and 116 include payment of the judgment for litigation filed against the former RDA and legal fees to Kane Ballmer and Berkman.

HSC section 34171 (d) (4) allows judgments or settlements entered by a competent court of law. The settlement agreement entered into by a competent court of law was provided. Therefore, Item 115 is an enforceable obligation.

HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. Therefore, Item 116 is an enforceable obligation.

- Items 112 and 118 through 130 are administrative costs of the housing successor agency. Per HSC section 34176 (a) (1), if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets, excluding any amounts on deposit in the LMIHF and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county. So, any administrative costs of the housing successor agency are now the obligation of the housing successor agency, not the successor agency. Therefore, the items are not enforceable obligations.
- Item Nos. 150 through 154 – Unfunded expenses from the January through June 2012 period totaling \$1 million. Finance no longer objects to Item 152; however, Finance continues to deny Items 150, 151, 153, and 154. Finance denied the items as the amount of property tax is not an unlimited funding source. Therefore, the ability to fund items on the ROPS with RPTTF is limited to the amount of funding available to the successor agency. HSC section 34173 (h) allows for a city to loan funds to a successor for administrative costs and enforceable obligations, and put the repayment of these loans on the subsequent ROPS. This does not appear to be the case for these items. Additionally, items 151 and 153 appear to be administrative and would be subject to the administrative cost cap pursuant to HSC section 34171 (b). Items 150 and 154 identify the payee as various; therefore, it is not evident they are tied to specific enforceable obligations.

For Item 152, the Agency contends the item is an enforceable obligation because the City and the Agency entered into a loan agreement in September 2012 pursuant to HSC section 34173 (h) to repay funds advanced by the City to pay administrative costs and enforceable obligations for which there was insufficient funding during the January through June 2012 period. Finance agrees that HSC section 34173 (h) allows the city, county, or city and county that authorized the creation of a RDA to loan or grant funds to

a successor agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion. An enforceable obligation shall be deemed to be created for the repayment of those loans. Item 152 is for costs associated with ROPS I RPTTF eligible items, for which there was insufficient RPTTF revenues to pay during the January through June 2012 period. Therefore, Item 152 is an enforceable obligation.

Items 150, 151, 153, and 154 were all previously denied by Finance in the ROPS I period; they are not administrative costs, enforceable obligations, or project-related expenses. HSC section 34177 (a) (3) states only those payments listed on the ROPS may be made. Therefore, the RDA does not have the authority to pay for items not approved for payment on the ROPS and place the loan for repayment on ROPS III. Items 150, 151, 153, and 154 are not enforceable obligations.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$10,002,260 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 10,538,901
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 52	180,000
Item 55*	12,500
Item 56*	120,150
Item 77	162,785
Item 78	30,000
Item 85	20,000
Item 86	2,000
Item 118**	0
Item 111	122,300
Item 150	46,204
Item 151	227,342
Item 153	23,996
Item 154	30,749
Total approved RPTTF for enforceable obligations	<u>\$ 9,560,875</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III***	<u>441,385</u>
Total RPTTF approved:	\$ 10,002,260

*Reclassified as administrative cost

**No payments requested for the reporting period

***Items 119, 120, 121, 124, 125, 129, and 130 were disallowed from the administrative allowance

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: Ms. Jill Ward, Principle Economic Development Project Manager, City of Palmdale
Ms. Kristina Burns, Manager, Los Angeles County Auditor-Controller's Office
California State Controller's Office