DEPARTMENT OF FINANCE

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REVISED

January 10, 2012

Ms. Dena Fuentes, Director
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415-0043

Dear Ms. Fuentes:

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 County of San Bernardino Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 23, 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 28, 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.

- Items 8 and 9 – County Loans totaling $9 million. Finance continues to deny the items at this time. Notwithstanding the difficult situation the Agency has encountered, HSC section 34171 (d) (2) clearly states that agreements, contracts, or arrangements between the county that created the redevelopment agency (RDA) and the former RDA are not enforceable. However, per HSC section 34191.4 (b), upon obtaining a Finding of Completion from Finance, loan agreements entered into between the RDA and the city, county, or city and county that created the RDA shall be deemed to be enforceable obligations provided the oversight board makes a finding the loan was for legitimate redevelopment purposes. Therefore, the items are currently not enforceable obligations.

- Item Nos. 42 and 60 through 62 – Bond proceeds totaling $30.6 million. Finance no longer objects to Item 42; however, Finance continues to deny Items 60 through 62 at this time. Finance denied the items as HSC 34163 (b) prohibits new or amended contracts after June 27, 2011. For Items 60 through 62, it is our understanding there are no contracts for these items. However, the successor agency 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.

For Item 42, the Agency contends that they have followed the requirements outlined in HSC section 34176 (g) (1) (A), which allows the housing entity assuming the housing functions of the former RDA to use indebtedness obligation proceeds that remain after the satisfaction of enforceable obligations approved in a ROPS and that are consistent with the indebtedness obligation 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. The new housing entity notified the Agency of designations and commitments of the 2005 housing bond proceeds and requested the item be listed on the ROPS III. The following required conditions are met; therefore, Item 42 is considered an enforceable obligation:

- The new housing entity's bond counsel provided a written opinion that the use of the bond proceeds is consistent with the bond covenants. Based on the bond counsel opinion, 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.

In addition, per Finance's ROPS letter dated October 6, 2012, the following items continue to be denied and were not contested by the Agency:

- Item Nos. 19, 21, and 22 – General services totaling $172,438. HSC section 34177 (l) (1) (E) states that Redevelopment Property Tax Trust Fund (RPTTF) funding may be claimed only to the extent no other funding source is available. According to Agency staff, other reserve balances can be used to fund these obligations. Finance does not question the inclusion of these items on the ROPS; however, because these items can be funded with other reserve fund balances, and therefore are no eligible for RPTTF funding.

The Agency's maximum approved RPTTF distribution for the reporting period is $5,040,232 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013		
Total RPTTF funding requested for obligations	$	5,060,843
Less: Six-month total for item(s) denied or reclassified as administrative cost		
Item No. 19		23,138
Item No. 21		66,300
Item No. 22		83,000
Total approved RPTTF for enforceable obligations	$	4,888,405
Plus: Allowable RPTTF distribution for administrative cost for ROPS III		151,827
Total RPTTF approved:	$	5,040,232

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 Hallen, Deputy Director of Community Development and Housing, San Bernardino County
Ms. Vanessa Doyle, Auditor-Controller Manager, San Bernardino County
California State Controller's Office