



December 18, 2012

Mr. Thomas Marston, Director of Finance
City of San Gabriel
425 S. Mission Drive
San Gabriel, CA 91776

Dear Mr. Marston:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 15, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of San Gabriel Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 31, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 15, 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 items being disputed.

- Item No. 1 – Cooperative Agreement between the City of San Gabriel (City) and the Agency in the amount of \$4 million. Finance continues to deny the item. Finance denied the item as the agreement dated June 1993 states the Agency will reimburse the City for costs and expenses incurred on behalf of the Agency; however no loan documents and repayment schedules were provided. 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 City/RDA Cooperation Agreement dated June 15, 1993 was provided and it is the loan document. Under the Cooperation Agreement, the City continued to loan funds to the Agency under the Agreement to pay for enforceable obligations approved on ROPS I (January 2012 through June 2012 period). Per HSC section 34173 (h), the city, county, or city and county that authorized the creation of a redevelopment agency may 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. However, the Agency does not have a loan agreement with the City. Once the Agency has entered into a loan with the City for purposes specified in HSC section 34173 (h) and subject to the oversight

board's separate and distinct approval, the use and receipt of the loan funds should be reflected on a subsequent ROPS. Therefore, this item is not an enforceable obligation.

- Items Nos. 17 (a) through (d) – Affordable Housing Monitoring and Administrative Costs totaling \$1,694,400. As further discussed below, for Items 17 (a) through (c), Finance continues to deny these items. For Item 17 (d), Finance no longer objects to this item; however, we are approving disbursement out of RPTTF rather than from the Low and Moderate Income Housing Fund (LMIHF) as requested on the ROPS. Finance originally 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. The administrative costs associated with the housing functions are the responsibility of the housing successor.

For Items 17 (a) through (c), obligations associated with the former RDA's previous 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. 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.

For Item 17 (d), the Agency contends these items are enforceable obligations because the affordable housing agreement for financial assistance is an enforceable obligation as it was executed prior to June 27, 2011. The item is an enforceable obligation as the agreement was entered into on January 6, 2011.

- Items Nos. 25 and 29 – Construction and Improvement Projects totaling \$1 million. As further discussed below, Finance continues to deny the items. For Item 25, Finance originally denied the item as it is our understanding the contract with Marina Landscape was entered into on July 19, 2011. For Item 29, Finance denied the item as it is our understanding the grant agreement was signed after June 27, 2011. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011.

The Agency contends Item 25 is an enforceable obligation because pursuant to Resolution OB 12-06, the Oversight Board acted to approve the item as an enforceable obligation and the City is authorized to retain these improvements. However, the Oversight Board had no legal basis to approve an action that directly conflicts with and violates the definition of an enforceable obligation. In addition, the contract with Marina Landscape was entered into on July 19, 2011. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.

The Agency contends Item 29 is an enforceable obligation because the City Council approved redevelopment funds as matching grant funds on January 18, 2011 as reflected in the San Gabriel City Council and Redevelopment Agency Minutes; the grant was approved by the Los Angeles County Metropolitan Transportation Authority and a funding agreement will be executed in 2014. While the matching funds were approved for use prior to June 27, 2011, no grant agreement has been executed and HSC section

34163 (b) continues to apply. Therefore, no obligation exists and the item is not an enforceable obligation.

The Agency's maximum approved RPTTF distribution for the reporting period is: \$1,919,800 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 2,593,920
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 1	230,250
Item 25	553,870
Item 29*	0
Total approved RPTTF for enforceable obligations	<u>\$ 1,809,800</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>110,000</u>
Total RPTTF approved:	\$ 1,919,800

* No RPTTF funding requested for the reporting period

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: On following page

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cc: Ms. Robin Scherr, Economic Development Manager, City of San Gabriel
Ms. Kristina Burns, Manager, Los Angeles County Auditor-Controller's Office
California State Controller's Office