



December 18, 2012

Mr. Jerry Craig, Program Manager
City of Tustin
300 Centennial Way
Tustin, CA 92780

Dear Mr. Craig:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 13, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Tustin Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 29, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 13, 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 item being disputed.

- Item Nos. 69, 71 and 72 – Various agreements with the City totaling \$30.2 million. Finance denied the items as HSC section 34171 (d) (2) states an enforceable obligation does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency (RDA) and the former RDA. It is our understanding that these agreements are between the Agency and the City. The Agency did not dispute Items 71 and 72 and contends Item 69 is an enforceable obligation because the City entered into bond-funded contracts for construction management, geotechnical services, environmental services, and development services staffing for the Tustin Ranch Road extension prior to June 27, 2011, and on May 29, 2012, the Oversight Board approved the Agency's acceptance of financial assistance from a variety of private and public funding sources and authorized the Agency to enter into a reimbursement agreement with the City for the Agency's match contribution.

While HSC section 34178 (a) and 34180 (h) authorizes successor agencies to enter into agreements, any agreement entered 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 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. In addition, HSC section 34163 (g) states that an agency may not accept financial assistance or other assistance from the state or federal government or any public or private sources if the acceptance necessitates or is conditioned upon the agency incurring indebtedness.

Since there are no contracts in place, the item is not eligible for bond funding at this time. 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.

In addition, per Finance's ROPS letter dated October 13, 2012, the following items not disputed by the Agency continue to be denied:

- Item No. 17 – Asset Transfer Obligations in the amount of \$50,000. HSC section 34163 (b) prohibits the Agency from entering into a contract with any entity after June 27, 2011. It is our understanding that no contract has been awarded for this line item. Therefore, the debt obligation is not an enforceable obligation.
- Items Nos. 62 and 88 – Various agreements totaling \$500,427. HSC section 34163 (c) prohibits the Agency from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011. The amendment for Item No. 62 was signed on August 2, 2011. Additionally, the amendment for Item No. 88 was signed on January 1, 2012. Therefore, these items are not enforceable obligations.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$3,803,590 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 7,927,889
Less: Six-month total for items denied	
Item No. 9	30,000
Item No. 17	50,000
Item No. 62	35,604
Item No. 71	2,888,941
Item No. 72	1,172,981
Item No. 88	214,610
Total approved RPTTF for enforceable obligations	\$ 3,535,753
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	267,837
Total RPTTF approved:	\$ 3,803,590

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: Mr. Jeffery Parker, City Manager, City of Tustin
Mr. Frank Davies, Administrative Manager, Orange County
California State Controller's Office