



December 18, 2012

Mr. Eddie Manfro, Interim City Manager
City of Westminster
8200 Westminster Boulevard
Westminster, CA 92683

Dear Mr. Manfro:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 20, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Westminster Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 5, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 20, 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 13, 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. 10 – Professional Legal Services in the amount of \$100,000. Finance no longer objects to the item; however, Finance reclassifies the item as an administrative cost. Finance denied the item as the former redevelopment agency (RDA) is not a party to the contract; it is between the City of Westminster (City) and the Law Offices of Richard D. Jones. The Agency could not provide documentation that supports this item. The Agency contends the item is an enforceable obligation because the Agency has entered into a separate agreement with the Law Offices of Richard D. Jones dated November 14, 2012. HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. However, Item 10 relates to general legal representation and not specifically to bringing or contesting a legal action in court; therefore, it is considered an administrative cost.
- Item Nos. 25, 26, and 31 – Lease Agreements totaling \$379,492. Finance continues to deny the items. Finance denied the items as these agreements are between the City and the former RDA. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. The Agency contends the items are enforceable obligations because the City/RDA agreements are not stand-alone documents, and do not constitute the full encumbrance of funds. Additional agreements tie redevelopment funding to third

parties. However, the Lease Agreements and the Contribution Agreement are between the City and the former RDA. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. Therefore, these agreements are no longer valid and the items are not enforceable obligations and not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

Finance notes that for Item 25, Article 20 of the Lease Agreement with the Chamber of Commerce states either party may terminate this Lease, with or without cause, by providing the other party with at least twelve (12) months prior written notice of the termination. For Item 31, Section 22 of the Franchise Agreement with the Coastline Advertising Corporation (Grantee) states the bus shelter portion of this Agreement may be terminated with or without cause by the former RDA by providing Grantee with written notice of termination in the first three (3) years after the effective date of this agreement; the effective date of the agreement was May 1, 2010. The Agreements should be terminated as per HSC section 34177 (h), which states the successor agencies are to expeditiously wind down the affairs of the RDA.

For Item 26, the Facility Management Services Agreement is between the City and a third party; the former RDA is not a party to the agreement. Since the former RDA is not a party to the agreement, the item is not an enforceable obligation.

- Item No. 34 – Police and Parking Facility bond funds in the amount of \$11 million. Finance denied the item as the former RDA is not a party to this contract; it is between the City and Griffin Structures, Inc. This is an obligation of the City and not the Agency. The Agency contends the item is an enforceable obligation because the 1982 City/RDA agreement, the Redevelopment Plan, and several resolutions of the City and the former RDA allow the City to contract on behalf of the former RDA. However, HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. Therefore, this item is not an enforceable obligation.

For the 2009 bond proceeds, 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. For the 2011 bonds proceeds, we note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010. The bond proceeds requested for use were issued in June 2011.

- Item No. 38 – Professional Agreement in the amount of \$5,167. Finance denied the item as the former RDA is not a party to this contract; it is between the City of Westminster and Downstream Services, Inc. This is an obligation of the City and not the Agency. The Agency contends the item is an enforceable obligation because the 1982 City/RDA agreement, the Redevelopment Plan, and several resolutions of the City and the former RDA allow the City to contract on behalf of the former RDA. However, HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that

created the RDA and the former RDA are not enforceable. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.

In addition, per Finance's ROPS letter dated October 20, 2012, the following item not disputed by the Agency continues to be reclassified:

- Administrative costs in the amount of \$14,539 out of the claimed \$462,723 for the January to June 2013 period are not an enforceable obligation. HSC section 34171 (b) limits administrative costs for fiscal year 2012-13 to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. Three percent of your FY 2012-13 approved RPTTF funding would be \$448,184. Therefore the remaining \$14,539 is denied.

The Agency's maximum approved RPTTF distribution for the reporting period is \$15,387,638 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 15,424,113
Less: Six-month total for items denied or reclassified as administrative cost	
Item 10*	100,000
Item 25	34,280
Item 26	195,212
Item 31	150,000
Item 38	5,167
Total approved RPTTF for enforceable obligations	14,939,454
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	\$ 448,184
Total RPTTF approved:	15,387,638

*Reclassified as an administrative cost

Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$0
Total RPTTF for the period January through June 2013	14,939,456
Total RPTTF for fiscal year 2012-13:	\$ 14,939,456
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	448,184
Administrative allowance for the period of July through December 2012	0
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 448,184

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.

Mr. Eddie Manfro
December 18, 2012
Page 4

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. Robin Roberts, City Clerk, City of Westminster
Mr. Frank Davies, Property Tax Manager, Orange County Auditor-Controller
California State Controller's Office