DEPARTMENT OF FINANCE

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May 17, 2013

Ms. Colleen O'Donoghue, Assistant Finance Director
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Ms. O'Donoghue:

Subject: Recognized Obligation Payment Schedule

This letter supersedes California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS 13-14A) letter dated April 13, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Costa Mesa Successor Agency (Agency) submitted a ROPS 13-14A to Finance on February 27, 2013 for the period of July through December 2013. 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 April 30, 2013.

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. 6 – City of Costa Mesa (City) Promissory Note in the amount of $14.3 million. Finance continues to deny this item at this time. Finance originally denied the item because HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the Redevelopment Agency (RDA) and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. During the Meet and Confer process, the Agency stated there are a series of notes arising from the original loan made within two years of creation of the RDA. The RDA issued a new promissory note each time new funds were borrowed from the City. Additionally, each promissory note between 1971 and 1978 were either paid or refinanced by a subsequent loan. Furthermore, review of the documentation provided indicates the loans within the first two years were fully paid back to the City by January 1980; therefore, the total outstanding balance due of $14.3 million is for loans not made within two years of the RDA's creation. Therefore, this item is not an enforceable obligation.

  Upon receiving a Finding of Completion from Finance, and after the oversight board makes a finding the loan was for legitimate redevelopment purposes, HSC section 34191.4 (b) may cause this item to be enforceable in future ROPS periods.

- Item Nos. 17, 18, 22, and 23 – Administrative costs totaling $50,538. Finance continues to deny these items. Finance denied the items since the City assumed the housing functions, the administrative costs associated with these functions are the responsibility

of the housing successor. 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 administrative costs and monitoring 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, these items are not enforceable obligations.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14A. 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 July through December 2013. Finance's determination is effective for this time period only and should not be conclusively relied on 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 denied on this ROPS or a preceding ROPS.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is $486,689 as summarized below:

Approved RPTTF Distribution Amount For the period of July through December 2013		
Total RPTTF funding requested for obligations	$	1,686,662
Minus: Six-month total for items denied or reclassified as administrative cost		
Item 6		1,299,705
Item 17		3,000
Item 18		13,000
Item 22		4,000
Item 23		5,269
Total approved RPTTF for enforceable obligations	$	361,688
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost		125,001
Minus: ROPS II prior period adjustment		-
Total RPTTF approved for distribution:	**$**	**486,689**

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 period. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. The amount of RPTTF approved in the above table includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

Please refer to the ROPS 13-14A schedule that was used to calculate the approved RPTTF amount:

http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14A Forms by Successor Agency/.

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 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 denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of 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.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Please direct inquiries to Kylie Le, Supervisor or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Bobby Young, Finance & IT Director, City of Costa Mesa
Mr. Frank Davies, Property Tax Manager, County of Orange
California State Controller's Office