



May 17, 2013

Ms. Ramona Castañeda, Fiscal Services Manager
City of Fullerton
303 West Commonwealth Avenue
Fullerton, CA 92832

Dear Ms. Castañeda:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS 13-14A) letter dated April 18, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Fullerton Successor Agency (Agency) submitted a ROPS 13-14A to Finance on March 4, 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 May 1, 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 items being disputed.

- Item Nos. 4 and 6 – Tax Allocation Bonds totaling \$136 million. Finance is no longer partially denying these items. During the Meet and Confer process, the Agency provided additional documentation to support the bond disclosure fees. Therefore, these items are considered enforceable obligations and are eligible for RPTTF funding.
- Item No. 8 – Steven Peck Owner Participation Agreement (OPA) in the amount of \$6.3 million. Finance is no longer denying this item. The OPA requires the former redevelopment agency (RDA) to construct a parking structure on the site once the renovation of the Fox Theatre is complete. The Agency states this requirement has been met as outlined in the OPA section 6.2.2. Therefore, this item is considered an enforceable obligation and is eligible for RPTTF funding.
- Item Nos. 23 and 28 – Affordable Housing Monitoring, Administration, and Reporting contracts totaling \$10.9 million. Finance continues to deny these items. 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 redevelopment agency, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. The City of Fullerton Housing Division assumed the housing functions, as such, the administrative costs associated with these functions is the responsibility of the housing successor. Therefore, these items are not enforceable obligations and not eligible for RPTTF funding.

- Item No. 30 – Capital Improvement Projects in the amount of \$95,000. Finance continues to deny this item. Finance originally denied this item because the contract is between the City of Fullerton (City) and Griffin Structures, and the RDA is not a party to the contract. During the Meet and Confer session, the Agency stated the City and RDA signed a cooperation agreement on January 29, 2011 committing RDA funding to the City agreement with Griffin Structures, Inc. However, HSC 34171(d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA creation date or for issuance of indebtedness to third-party investors or bondholders. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.
- Item No. 32 – Amerige Court Developer Disposition Agreement (DDA) in the amount of \$100,000. Finance continues to deny this item. Finance's determination letters dated October 19, 2012 and December 18, 2012 denied these items because the DDA was amended after June 27, 2011 and the costs associated with the amendment are not enforceable obligations and not eligible for RPTTF funding. The Agency contends this item is needed for professional and legal costs connected to the project. The Agency also stated, HSC 34177.3 (b) allows administrative and legal services for the winding down of the RDA. Upon review of the professional services agreements with Tierra West Advisors and Rutan & Tucker LLP, the costs do not appear to be for services related to winding down. HSC section 34163 (c) prohibits a RDA from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011. Therefore, the amendment and associated costs are not enforceable obligations and not eligible for RPTTF funding.
- Item No. 33 – State College Grade Separation in the amount of \$4.4 million payable from bond proceeds. Finance no longer objects to this item. Finance originally denied this item because the contract was between the City and the Orange County Transportation Authority and the Agency is not a party to the contract. Pursuant to HSC section 34191.4 (c) the Agency's request to use bond funds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance.

Subsequent to the Meet and Confer session, the Agency received a Finding of Completion from Finance on May 10, 2013. Therefore, the Agency may utilize proceeds derived from bonds issued prior to January 1, 2011 in a manner consistent with the original bond covenants per HSC section 34191.4 (c). As such, this item is eligible for expenditure on the ROPS 13-14A, as originally requested.

- Item No. 34 – Project T Grant Match in the amount of \$98,000. Finance continues to deny this item at this time. Finance denied this item in our determination letters dated October 19, 2012 and December 18, 2012. It is our understanding, the contracts are between the City and various third-parties and the Agency is not a party to the contract. As such, this line item is not enforceable obligation and not eligible for RPTTF funding.
- Item No. 35 – Downtown Core & Corridors Specific Plan in the amount of \$1.3 million. Finance continues to deny this item. The contract is between the City and a third-party and the Agency is not a party to the contract. During the Meet and Confer session, the Agency stated the RDA committed funds for the City's project per the City and RDA cooperation agreement dated January 25. However, HSC 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA creation

date or for issuance of indebtedness to third-party investors or bondholders. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.

- Item Nos. 36 and 37 – City and Agency Cooperation Agreements dated January 29, 2011 and June 7, 2011 totaling \$15.5 million. Finance continues to deny these items. The Agency contends the cooperation agreements committed the RDA to fund the related capital improvement projects. However, HSC 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA creation date or for issuance of indebtedness to third-party investors or bondholders. Therefore, these line items are not enforceable obligations and not eligible for RPTTF funding.
- Item Nos. 38, 39, and 40 – 2005 Non-Housing Bond Proceeds, 2010 Housing Bond Proceeds, and Pathways to Hope Project totaling \$48 million. Finance no longer objects to these items. Finance originally denied these items because there were no contracts in place by June 27, 2011. Pursuant to HSC section 34191.4 (c) the Agency's request to use bond funds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance.

Subsequent to the Meet and Confer session, the Agency received a Finding of Completion from Finance on May 10, 2013. Therefore, the Agency may utilize proceeds derived from bonds issued prior to January 1, 2011 in a manner consistent with the original bond covenants per HSC section 34191.4 (c). As such, this item is eligible for expenditure on the ROPS 13-14A, as originally requested. Additionally, because the Agency has received their Finding of Completion there is no longer a need for Finance to verify if the Agency followed the criteria outlined in HSC 34176 (g).

In addition, per Finance's ROPS letter dated April 18, 2013, the following item was not disputed by the Agency continues to be denied:

- Item No. 26 – County Administration Fee in the amount of \$200,000. During the Meet and Confer, the Agency stated they no longer contest the denial of this item. HSC section 34182 (e) allows the county auditor-controller to deduct their administrative costs from RPTTF prior to distributing tax increment to the Agency, therefore this line item is not eligible for RPTTF funding on the ROPS.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$8,973,446 as summarized below:

Approved RPTTF Distribution Amount For the period of July through December 2013	
Total RPTTF funding requested for obligations	\$ 13,991,411
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 23	60,000
Item 26	200,000
Item 28	65,000
Item 30	47,500
Item 32	25,000
Item 34	45,000
Item 35	330,465
Item 36	3,500,000
Item 37	750,000
Total approved RPTTF for enforceable obligations	<u>\$ 8,968,446</u>
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	<u>180,000</u>
Minus: ROPS II prior period adjustment	<u>(175,000)</u>
Total RPTTF approved for distribution:	\$ 8,973,446

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/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%2013-14A%20Forms%20by%20Successor%20Agency/).

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)

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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. Charles Kovac, Project Manager, City of Fullerton
Mr. Frank Davies, Property Tax Manager, County of Orange
California State Controller's Office