DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. ▪ GOVERNOR
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April 13, 2013

Mr. Steven Lantsberger, Deputy Director of Economic Development
City of Hesperia Successor Agency
9700 Seventh Avenue
Hesperia, CA 92345

Dear Mr. Lantsberger:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Hesperia Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14A) to the California Department of Finance (Finance) on February 27, 2013 for the period of July through December 2013. Finance has completed its review of your ROPS 13-14A, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on a sample of line items reviewed and application of the law, the following do not qualify as enforceable obligations:

- Item Nos. 22, 23, 51, and 52 – Supplemental Education Revenue Augmentation Fund and Low and Moderate Income Housing Fund loans totaling $10,215,302, payable from Other Funds, are not enforceable obligations at this time. HSC section 34176 (e) (6) (B) specifies loan or deferral repayments to the Low and Moderate Income Housing Fund shall not be made prior to the 2013-14 fiscal year; and upon receipt of a Finding of Completion from Finance. Additionally, the repayment of these loans is subject to the repayment formula outlined in HSC section 34176 (e) (6) (B). HSC section 34191.4 (b) (2) (A) allows this repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the taxing entities in the 2012-13 base year. Since the formula does not allow for estimates, the Agency must wait until the ROPS residual pass-through distributions are known for fiscal year 2013-14 before requesting funding for this obligation. Therefore, the Agency may be able to request funding beginning with ROPS 14-15A.

- Item No. 24 – Public Improvement Loans in the amount of $9,602,385, payable from Other Funds. This line item was denied by Finance as a portion of a disallowed transfer to the Hesperia Housing Authority totaling $14.6 million during the Meet and Confer session for the LMIHF Due Diligence Review (DDR), in the letter dated April 11, 2013. Finance continues to deny this item. Therefore, this line item is not an enforceable obligation and is not eligible for funding on the ROPS.

- Item No. 25 – Low/Moderate Housing Legal Service in the amount of $300,000. This line item is not an enforceable obligation of the Agency; 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. Since the Hesperia Housing Authority assumed the housing functions, the administrative costs, including legal expenses, associated with these functions are the responsibility of the housing successor.

- Item No. 27 – Browning Desert Properties IV, LLC/Hesperia Community Development Commission Disposition and Development Agreement (DDA) in the amount of $6.5 million. Finance was unable to determine whether this line item meets the definition of an enforceable obligation. Documentation provided by the Agency did not support the amounts claimed as Agency obligations; future obligations established in the DDA appear to be obligations of the City of Hesperia. Therefore, this line item is not an enforceable obligation at this time, and not eligible for funding on the ROPS unless additional or clarifying information is provided to Finance through a Meet and Confer process.

- Item No. 33 – Contingent Contract Liability for inclusionary housing in the amount of $7,250,000, payable from Reserves. This item was denied by Finance as part of a disallowed transfer to the Hesperia Housing Authority totaling $9.8 million in our letter dated December 15, 2012 during the LMIHF DDR Meet and Confer session. The inclusionary housing obligations were also denied by Finance as an inclusion to the ROPS for the period January through June 2013 in the letter dated October 12, 2012, as well. Finance continues to deny this item. Therefore, this line item is not an enforceable obligation and is not eligible for funding on the ROPS.

- Item No. 34 – Recycle Market Development Zone in the amount of $758,398, payable from Other Funds. The Letter of Commitment from the former redevelopment agency (RDA) Chairman dated October 20, 2009 is not a contract; and cannot obligate the Agency. Therefore, this line item is not an enforceable obligation and is not eligible for funding on the ROPS.

- Item No. 35 – Small Business Counseling in the amount of $364,000, payable from Other Funds. This line item is not an obligation of the Agency; the contract is between the City of Hesperia (City) and Inland Empire Economic Partnership, Inc. The former RDA is neither a party to the contract nor responsible for payment of the contract. Therefore, this line item is not an enforceable obligation and is not eligible for funding on the ROPS.

- Item No. 45 – Broker's Incentive Program in the amount of $19,972. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. The broker incentive program requires City approval before an applicant is accepted to the program. The application provided to Finance indicates the applicant submitted the documents to the City on June 23, 2011, and approval documentation was not provided. It is our understanding that the contract for this line item has not been awarded; therefore, this line item is not an enforceable obligation and is not eligible for funding on the ROPS.

- Item Nos. 48 and 56 – City Loan agreements totaling $2,183,001, payable from Other Funds, are not enforceable obligations at this time. 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, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. These loans were issued after the first two years of the former RDA's creation and are not associated with the issuance of debt. Additionally, the Agency did not provide properly executed loan agreements to support these line items. Therefore, these items are not enforceable obligations and not eligible for funding on the ROPS.

- Item No. 54 – Section 108 Loan Guarantee in the amount of $1 million, payable from Other Funds. This line item is not an obligation of the Agency; the contract is between the City and the Secretary of Housing and Urban Development. The former RDA is neither a party to the contract nor responsible for payment of the contract. Therefore, these line items are not enforceable obligations and are not eligible for funding on the ROPS.

- Item No. 57 – Zunino Real Property Assessment in the amount of $555,818. Finance was unable to determine whether this line item meets the definition of an enforceable obligation. Documentation provided by the Agency did not support the amounts claimed as Agency obligations to the City. The Agency stated the former RDA owns property that requires the RDA to pay a "special property tax" toward payment on the bonds. Additionally, documentation provided shows the City was issued the Bonds, without mention of the obligation of the former RDA. Therefore, this item is not an enforceable obligation at this time and not eligible for funding on the ROPS.

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. This determination applies only to items where funding was requested for the six month period. If you disagree with the determination with respect to any items on your ROPS 13-14A, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is $5,737,074 as summarized below:

Approved RPTTF Distribution Amount For the period of July through December 2013		
Total RPTTF funding requested for obligations	$	5,753,765
Minus: Six-month total for items denied or reclassified as administrative cost		
Item 25		150,000
Item 27		50,000
Item 45		19,972
Item 57		71,719
Total approved RPTTF for enforceable obligations	$	5,662,074
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost		75,000
Minus: ROPS II prior period adjustment		-
Total RPTTF approved for distribution:	**$**	**5,737,074**

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 Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Anne Duke, Deputy Finance Director
Ms. Vanessa Doyle, Auditor Controller Manager, County of San Bernardino
California State Controller's Office