DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 17, 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

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 Hesperia 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 24, 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. 22 and 23 – Supplemental Education Revenue Augmentation Fund Loans totaling $10,137,460 ($9,126,755 and $1,010,705, respectively) payable from Other Funds. Finance continues to deny these items at this time. HSC section 34176 (e) (6) (B) specifies loan or deferral repayments to the LMIHF shall not be made prior to the 2013-14 fiscal year. While ROPS 13-14A technically falls within fiscal year 2013-14, the repayment of these loaned amounts is subject to the repayment formula outlined in HSC section 34176 (e) (6) (B). HSC section 34176 (e) (6) (B) 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 for the repayment of these items beginning with ROPS 14-15A.

- Item No. 24 – Public Improvement Loans in the amount of $9,602,385 payable from Other Funds. This loan is an advance to the Agency from the LMIHF and was entered into on March 11, 2013. It is our understanding that this amount is a portion of the $14,486,524 that was disallowed as a transfer in the LMIHF Due Diligence (DDR) review.

As evidenced by the Promissory Note executed on March 15, 2011 by the Agency, this was for a loan from the LMIHF to the Agency project (Non-Housing) fund. Pursuant to HSC section 34163 (c) (5), the Agency was prohibited from transferring funds out of the LMIHF except to meet minimum housing-related obligations that existed as of January 1, 2011.

Based upon this information, Financed ordered that this transfer be reversed in its LMIHF DDR Meet and Confer determination letter dated April 11, 2013. The reversal would cancel the both the payable and the receivable, and zero out any obligation. Therefore, pursuant to HSC section 34171 (d) this item does not qualify as an enforceable obligation and not eligible for funding on the ROPS.

- Item No. 25 – Contract for Litigation in the amount of $300,000. Finance no longer objects to this item. Finance originally denied this item stating that Hesperia Housing Authority assumed the housing functions. The administrative costs, including legal expenses, associated with these functions are the responsibility of the housing successor. However, HSC section 34171(b) allows litigation expenses related to assets or obligations to be funded with RPTTF outside the administrative cap. As a result of the ROPS III Meet and Confer held on November 6, 2012, this item is not considered an administrative cost of the housing successor. Therefore, this item is an enforceable obligation and eligible for funding on the ROPS.

- Item No. 27 – Browning Desert Properties IV, LLC/Hesperia Community Development Commission Disposition and Development Agreement in the amount of $6,500,000. Finance continues to deny this item. Finance was unable to determine whether this item meets the definition of an enforceable obligation. During the Meet and Confer process, the Agency provided clarifying information. The Agency is contractually obligated to sell certain real property to a developer and $6,500,000 represents the purchase price of the property. It is our understanding that this amount is listed on the ROPS in case the County Auditor-Controller (CAC) takes the property away from the Agency and the Agency is required to buy back the property to satisfy its enforceable obligation. Allocating funds for unknown contingencies is not an allowable use of funds. Therefore, this item is not eligible for funding on the ROPS.

- Item No. 33 – Contingent Contract Liability in the amount of $7,250,000 payable from Reserves. Finance continues to deny this item. This item was originally denied by Finance stating that it was part of a disallowed transfer to the Hesperia Housing Authority. It is our understanding that this item is not a disallowed transfer and it was not part of the inclusionary housing obligations that were previously denied by Finance. However, the Agency is currently involved in a legal dispute with a third party. This contingency is the amount of funds required to satisfy the future settlement or judgment. Allocating funds for unknown contingencies is not an allowable use of funds. Therefore, this 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. Finance continues to deny this item. This item was originally denied because the Letter of Commitment from the former redevelopment agency (RDA) Chairman dated October 20, 2009 is not a contract. Finance concluded that the Letter of Commitment is not sufficient enough to determine whether this item is an enforceable obligation. Therefore, this item is not eligible for funding on the ROPS.

- Item No. 35 – Small Business Counseling in the amount of $364,000 payable from Other Funds. Finance continues to deny this item. This item is not an obligation of the Agency. The contract is between the City of Hesperia (City) and Inland Empire Economic Partnership, Inc. entered into on March 23, 2010. The former RDA is neither a party to the contract nor responsible for payment of the contract. Therefore, this item is not an enforceable obligation and not eligible for funding on the ROPS.

- Item No. 45 – Broker's Incentive Program in the amount of $19,972. Finance continues to deny this item. This item was originally denied prohibiting RDA from entering into a contract with any entity after June 27, 2011. During the Meet and Confer process the Agency provided documentation showing that the applications were approved before June 27, 2011. However, documentation provided by the Agency states that the City/Hesperia Community Redevelopment Agency (HCRA) has the authority to cancel any application for any reason at any time and the City/HCRA has the right to terminate the program at any time. Therefore, this item is not an enforceable obligation and not eligible for funding on the ROPS.

- Item No. 48 – Loan/Advances for Administrative Costs totaling $1,683,001 payable from Other Funds. Finance no longer objects to this item. Finance originally denied this item stating that it is a contract between the City that created the RDA and the former RDA. However, HSC section 34173 (h) allows the City to grant funds to the Agency to pay for obligations. The Agency did not receive sufficient RPTTF for ROPS I, II, and III and in order to avoid breach of contracts, the City funded the expenses of the Agency. Therefore, this item is an enforceable obligation and is eligible for funding on the ROPS.

- Item Nos. 51 and 52 – Victor Valley Economic Development Authority Loans from LMIHF in the amount of $1,077,842 payable from Other Funds. During the Meet and Confer process, the Agency provided additional information and it is our understanding that these items are revenues rather than obligations. HSC section 34171 (h) defines ROPS as setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period. These items are not obligations of the Agency and should be removed from the ROPS.

- Item No. 54 – Section 108 Loan Guarantee in the amount of $1,000,000 payable from Other Funds. Finance continues to deny this item. This item is not an obligation of the Agency. The contract is between the City and the Secretary of Housing and Urban Development entered into on June 13, 1997. The former RDA is neither a party to the contract nor responsible for payment of the contract. Therefore, this item is not an enforceable obligation and is not eligible for funding on the ROPS.

- Item No. 56 – ROPS-RPTTF Deficiency Loan - If Required in the amount of $500,000 payable from Other Funds. Finance continues to deny this item. Finance originally denied this item stating that it is a contract between the City that created the RDA and the former RDA are not enforceable. However, this is a loan from San Bernardino County, not the City. The Agency placed this item on the ROPS should the actual RPTTF distribution be less than the amount needed to pay enforceable obligations. Allocating funds for unknown contingencies is not an allowable use of funds. Therefore, this item is not eligible for funding on the ROPS. Should the Agency execute a legally

binding agreement in the future, that obligation may be submitted for consideration on subsequent ROPS.

- Item No. 57 – Zunino Real Property Assessment in the amount of $555,818 payable from RPTTF. Finance no longer objects to this item. This item was originally denied stating that Finance was unable to determine whether this item meets the definition of an enforceable obligation. During the Meet and Confer process, the Agency provided documentation showing that the former RDA owns property that requires the Agency to pay a special property tax on property owned by the former RDA. Therefore, this item is an enforceable obligation and 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. 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 RPTTF distribution for the reporting period is $5,758,793 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		
Item 27		50,000
Item 45		19,972
Total approved RPTTF for enforceable obligations	$	5,683,793
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost		75,000
Minus: ROPS II prior period adjustment		-
Total RPTTF approved for distribution:	**$**	**5,758,793**

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 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 Wendy Griffe, Supervisor or Medy Lamorena, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

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