



May 17, 2013

Ms. Lisa Kim, Senior Project Manager
City of Orange Successor Agency
City of Orange
230 East Chapman Avenue
Orange, CA 92866

Dear Ms. Kim:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 14, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Orange Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14A) to Finance on February 28, 2013 for the period of July through December 2013. Finance issued a ROPS determination letter on April 14, 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 22, 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. 11, 15, 16, 21, 22, 84, and 85 – Property Management and Maintenance totaling \$112,224. Finance no longer classifies these items as administrative costs. Our review indicates these are property and management contracts for specific tasks related to specific Agency properties. Per HSC section 34171 (b), the administrative cost allowance shall not apply to costs to maintain assets prior to disposition.
- Item No. 74 – Pavement Coating contract in the amount of \$154,701. Finance no longer believes an adjustment to the amount requested is needed. Our review of the contract dated February 13, 2013 between the Agency and Pavement Coatings Co. states that \$140,637 is the amount for full compensation, including any unforeseen difficulties and obstructions. However, this agreement is an enforceable obligation and the Agency submitted an Oversight Board action for Finance review to increase the contract to include the ten percent retention amount erroneously excluded from the original contract. Therefore, the Agency will be permitted to receive the additional \$14,064 to complete the project.
- Item Nos. 12, 25, and 42 – Staffing costs totaling \$352,000. Finance continues to classify these as administrative costs. The Agency claims these costs are associated

with maintaining assets prior to disposition in accordance with HSC section 34171 (b) as they are staffing costs associated with property management, loan agreement oversight, and asset disposition. However, the documentation provided by the Agency did not adequately support these costs, nor were the costs associated back to specific Agency projects and/or properties. Specifically, the Agency allocates staff time on a percentage of time per task basis. Finance requested timekeeping policies and procedures to support the allocation basis; however, none was provided. In addition, the description of the work performed is general and could not be tied directly to specific projects on an approved Recognized Obligation Payment Schedule (ROPS) or to specific properties. In addition, the duty statements provided by the Agency did not include tasks specific to projects and/or properties and the new duty statements provided are general, informal, and dated for 2014.

- Item Nos. 13, and 24 – Legal services totaling \$9,529. Finance continues to reclassify these items as administrative costs. The contracts provided by the Agency state the services provided from time to time in connection with specific transaction matters and other legal matters; however, the Agency did not provide any documentation tying the legal services to specific tasks and/or properties. Therefore, these items are considered general legal services and are administrative costs.
- Item No. 76 – Heating, Ventilating, and Air Conditioning system (HVAC) for the Depot Building totaling \$26,046. Finance continues to classify this item as administrative costs. The Agency claims this is a cost associated with maintaining assets prior to disposition in accordance with HSC section 34171 (b) as it is required by a lease agreement between the Agency and a third party. Our review of the documentation provided by the Agency indicates the Agency is required to maintain the HVAC system; however, the Agency did not provide documentation supporting a new HVAC system or repair is needed. Therefore, this item is a discretionary cost and should be deferred and included in the Long Range Property Management Plan (LRPMP).
- Item No.33 – Real estate feasibility study totaling \$3,196. Finance continues to classify this as an administrative cost. The Agency claims this item is related to the preparation of the LRPMP and are a cost associated with maintaining assets prior to disposition in accordance with HSC section 34171 (b). Our review of the documentation provided by the Agency indicates this contract was entered into May 11, 2011; however, the Agency did not provide the scope of work establishing this item is related to specific properties. We note, the contract scope would not address costs associated with the LRPMP as the contract was entered into prior to AB 1484. We also note, a feasibility study is not required by ABx1/AB 1484 for the LRPMP; therefore, this study is discretionary and is considered a general administrative cost.
- Item No. 18 – Agency Property Maintenance in the amount of \$561,000. Finance continues to classify this as an administrative cost. The Agency claims these are costs associated with maintaining assets prior to disposition in accordance with HSC section 34171 (b) as they are maintenance and utility costs for Agency owned properties. Our review of the documentation provided by the Agency indicates the costs are attributed to 300 E. Chapman Ave., the City and Agency address (per utility bills), and other properties not included on the list of Agency owned properties provided by the Agency. In addition, several invoices/bills are addressed to the City, not the Agency.

The total amount requested for this item also includes costs of repairs for 230 E. Chapman Avenue; however, the agency did not provide any documentation supporting the costs and need for the repairs. Therefore, for the aforementioned reasons, these are administrative costs that should be counted towards the administrative costs cap.

- Item Nos. 17 and 75 – Property maintenance costs totaling \$30,000. Finance originally reclassified this item as an administrative cost. However, Finance now denies these items. The Agency claims these are costs associated with maintaining assets prior to disposition in accordance with HSC section 34171 (b) as they are costs associated with property maintenance. Item 17 is a contract between the City and a third party; the Agency is not a party to the agreement. In addition, the contract was entered into after June 27, 2011 and did not include a scope of work. Therefore, Finance was unable to determine the costs associated with Agency property. For Item 75, the contract was entered into on February 14, 2013 and only included an informal scope of work that did not tie directly to Agency property. For these reasons, these two items are not enforceable obligations, nor are they administrative costs for maintenance of property prior to disposition.
- The Agency disagrees with the prior period adjustment (PPA) of \$2,793,965. Finance contacted the County Auditor Controller (Controller) to determine if an error was made calculating the PPA. The Controller confirmed the Agency did not receive all Redevelopment Property Tax Trust Funds (RPTTF) for the Recognized Obligation Payment Schedule (ROPS) period of July through December 2012 (ROPS II); therefore, HSC section 34183 (a) (2), applies. This section requires Agencies to pay all other enforceable obligations listed on a ROPS before administrative costs are paid when the Agency does not receive sufficient RPTTF to fund all ROPS enforceable obligations. Therefore, there is no error in the PPA and Finance concurs with the Controller's proposed PPA amount.
- Item No. 82 – Reserve for the Redevelopment Obligation Retirement Fund (RORF) in the amount of \$1,463,586. To the extent that funds were available but not expended or spent during the period, the Agency may request Redevelopment Property Tax Trust Funds again on a future ROPS. Currently, any funds not expended in the period for which they were approved will be adjusted by the Orange County Auditor-Controller pursuant to HSC section 34186 (a). Therefore, the request to pay Various Payees is not allowed.
- Finance reclassified \$506,888 to administrative costs causing administrative costs funded by RPTTF to exceed the allowance by \$437,924. HSC section 34171 (b) limits administrative expenses to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. Three percent of the property tax allocated is \$120,104. Therefore, the Agency is eligible to receive \$250,000 in administrative costs. However, \$437,924 of the claimed \$687,924 is not an enforceable obligation.

In addition, per Finance's ROPS letter dated April 14, 2013, the following items not contested by the Agency during the Meet and Confer continue to be denied:

- Item No. 81 – Orange Police Facility Certificates of Participation in the amount of \$1,025,000. According to the Agency, this item represents the final bond payment due in August 2014. HSC section 34171 (d) (1) (A) allows reserves when required by the

bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year. The Agency has not provided sufficient documentation to indicate the next few property tax allocations will be insufficient.

- Item No. 86 – Alley Cat Development Inc. in the amount of \$85,668. It is our understanding there are no contracts in place; allocating funds for unknown contingencies is not an allowable use of funds. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011.
- Administrative costs funded by RPTTF. Finance previously reclassified the following items as administrative costs.
 - Item Nos. 14, 23 – Agency Property-Management
 - Item No. 26 – Loan Agreements – Oversight
 - Item Nos. 35 through 41, 43, and 72 – Agency Asset Transfer/Disposition
 - Item Nos. 77 and 87 – Maintenance Contracts

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS 13-14A. Obligations deemed not to be enforceable shall be removed from your ROPS.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$1,459,516 as summarized on the following page:

Approved RPTTF Distribution Amount	
For the period of July through December 2013	
Total RPTTF funding requested for obligations	\$ 6,034,537
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 12*	38,000
Item 13*	2,072
Item 14*	25,000
Item 17	10,000
Item 18	345,500
Item 23*	1,057
Item 24*	7,457
Item 25*	38,000
Item 26*	25,000
Item 33*	3,196
Item 35*	15,000
Item 36*	15,000
Item 37*	15,000
Item 38*	5,571
Item 39*	15,000
Item 40*	9,100
Item 41*	16,000
Item 42*	100,000
Item 43*	60,000
Item 72*	25,000
Item 75	20,000
Item 76*	26,046
Item 77*	85,019
Item 81	1,025,000
Item 86	85,668
Item 87*	18,370
Total approved RPTTF for enforceable obligations	\$ 4,003,481
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	250,000
Minus: ROPS II prior period adjustment	(2,793,965)
Total RPTTF approved for distribution:	\$ 1,459,516

*Reclassified as administrative cost.

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 that was self-reported by the Agency and the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment. Please refer to the worksheet used by the CAC to determine the audited prior period adjustment for the Agency:

<http://www.dof.ca.gov/redevelopment/ROPS/view.php>

Please refer to the ROPS III schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS/ROPS III 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 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.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Barbara Messick, Economic Development Project Manager
Mr. Frank Davies, Property Tax Manager, County of Orange
California State Controller's Office