DEPARTMENT OF FINANCE

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REVISED

May 29, 2013

Mr. Allen Parker, City Manager
City of San Bernardino Successor Agency
300 North D Street
6th Floor
San Bernardino, CA 94218

Dear Mr. Parker:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated May 12, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of San Bernardino Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14A) to the California Department of Finance (Finance) on March 28, 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 17, 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.

- Items 2, 12, and 13 – Payments for Lease Revenue Bonds totaling $3,442,750. These bonds are secured through lease payments of the City of San Bernardino (City) and/or other third parties. Based on the documentation provided by the Agency, there is no requirement to fund these bond payments through tax increment. Therefore, these line items were determined to be ineligible for Redevelopment Property Tax Trust Fund (RPTTF) funding. However, the Agency is approved to use funding from other funding sources; specifically, the lease payments received by the Agency from the City and/or other third parties.

  The Agency did not object to the denial of Item 2; therefore, Item 2 remains denied for RPTTF funding.

  Finance does not object to Items 12 and 13 for RPTTF funding during the ROPS 13-14A period. During the Meet and Confer process, the Agency stated that the former RDA and the third parties had separate Standby Loan Agreements for these bonds whereby the former RDA would secure payment of the debt service if lease revenues were insufficient. While the bond documents provided reference the Standby Loan Agreements, the Agency did not provide these agreements for review. However, to ensure sufficient funds are available to meet the debt service payments, Finance will

approve these items for the ROPS 13-14A period and will be reviewing the Standby Loan Agreements during the ROPS 13-14B period to determine if the Agency is, in fact, responsible for securing payment of the debt service if lease revenues are insufficient. The Agency will also have to provide information demonstrating that the third parties are not making the necessary payments.

- Item 24 – San Bernardino Building Tax Sharing Agreement in the amount of $1,868,505. Finance no longer denies this item. The item was initially denied as the Agency did not provide an executed agreement. During the Meet and Confer process, the Agency provided the executed copy. Therefore, this item is an enforceable obligation and is eligible for RPTTF funding.

- Item 40 – Watson OPA in the amount of $400,000 for the ROPS 13-14A period. Finance no longer denies this item. The total amount of the agreement is for $999,203 and the Agency reported actual expenditures of $780,000 from bond proceeds in the January through June 2012 period. In the January through December 2013 period, the Agency requested $400,000 in RPTTF funding and Finance did not deny the item. However, during the Meet and Confer process, the Agency provided accounting records showing actual expenditures $269,139 for all ROPS periods. Therefore, this item is eligible for RPTTF funding.

- Item 44 and 46 – Housing Monitoring Services and Housing Loan totaling $497,500. 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 RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. Since the City assumed the housing functions, the obligations associated with these functions are the responsibility of the housing successor. Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding.

In addition, per Finance's ROPS letter dated May 17, 2013, the following items not disputed by the Agency continue to be denied:

- Item Nos. 1 and 5 – Payments for Lease Revenue Bonds totaling $22,449,808. Based on the documentation provided by the Agency these bonds are secured through lease payments of the City of San Bernardino (City). Additionally, the obligation to make debt service payment on these bonds is that of the City of San Bernardino (City), not the Agency. As a result, these items are not enforceable obligations and not eligible for funding.

- Item No. 21 – Carousel Mall Note in the amount of $16,586,000; $336,000 payable from RPTTF, and $16.25 million payable from Other Funds. According to the documentation provided, the maturity date of the obligation was May 3, 2012. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding or funding from Other Funds.

- Item No. 26 – Woolworth Building Installment Note in the amount of $506,637. The amendment to the installment note only extended the agreement through January 1, 2013, and does not indicate a continuation of the obligation past that period. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 39 – Construction Management Services contract in the amount of $45,000. HSC section 34163 (b) prohibits a redevelopment agency (RDA) from entering into a contract with any entity after June 27, 2011. It is our understanding that contracts for this line item was awarded after June 27, 2011. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding. Additionally if this was for project management costs, it is unclear for what approved ROPS project this is for.

- Item Nos. 63 through 75, 77, and 79 – Regal Cinema and Theatre Square Project contracts with various third parties totaling $4,211,001; payable from Other Funds. The former RDA is neither a party to the contract nor responsible for payment of the contract. Additionally, these items were denied as an inclusion to the ROPS for the period January through June 2013, and that decision was later upheld through the Meet and Confer process in our letter dated December 18, 2012. Finance continues to deny these line items as enforceable obligations.

- Item Nos. 76, 78, and 80 – Professional Services contracts totaling $32,474. The former RDA is neither a party to the contracts nor responsible for the payment of the contracts. Therefore, these line items are not enforceable obligations and are not eligible for RPTTF funding.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is $12,219,402 as summarized below:

Approved RPTTF Distribution Amount For the period of July through December 2013	
Total RPTTF funding requested for obligations	$ 20,645,999
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 1	793,298
Item 2	10,000
Item 5	870,188
Item 21	336,000
Item 26	506,637
Item 39	35,000
Item 44	32,250
Item 46	400,000
Item 78	4,953
Item 80	16,813
Item 83*	71,621
Total approved RPTTF for enforceable obligations	$ 17,569,239
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	527,077
Minus: ROPS II Prior Period Adjustment	(5,876,914)
Total RPTTF approved for distribution:	**$ 12,219,402**

*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 (ROPS II). Based on our review of the Agency's prior period adjustment reporting, the Agency used distributed RPTTF for non-

approved ROPS items. Pursuant to HSC 34177 (a) (3) only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the ROPS. Furthermore, pursuant to HSC section 34178 (a), the Agency or oversight board is not allowed to restore funding for an obligation that was denied by Finance. The table below delineates the payments that were not authorized.

ROPS II Expenditures Made without Finance Approval As reported by Agency on Prior Period Payment worksheet	
Form A, Item 14.1	$ 651,996
Form A, Item 21	$ 330,000
Form A, Item 86	$ 711,485
Form A, Item 89	$ 4,183,433
Total unauthorized payments from RPTTF	**$ 5,876,914**

As a result of our review, Finance is hereby adjusting the prior period adjustment as reported on the ROPS 13-14A form to accurately reflect only those payments that were authorized by Finance on the Agency's ROPS II form. To the extent any of the adjusted amounts are related to enforceable obligations, the Agency should list those obligations on a subsequent ROPS for review and approval by Finance. The total prior period adjustment, as calculated by Finance is $5,876,914.

Finance further notes that it appears the Agency paid unallowable obligations that are subordinated to RDA bond debt service payments in the ROPS II period. According to County Auditor-Controller reports for the ROPS II period, the Agency received sufficient funding to cover all debt service payments for that period. As such, the Agency should not have used bond reserves in order to make debt service payments. Specifically, the Agency was distributed $11,165,764 during the ROPS II period and approved enforceable obligations by Finance totaled $12,857,031. Of the approved enforceable obligation amount, debt service only totaled $9,930,335. This was $1,235,429 less than what was actually distributed to the Agency. Pursuant to HSC 34183 (a) (2) (A) the Agency was required to make bond payments the first priority for payment from distributed RPTTF.

Finally, Finance notes that the Agency's available RPTTF for the ROPS 13-14A period, as calculated by the County Auditor-Controller is estimated to be $12,110,904. The Agency is approved to receive $12,219,402 in RPTTF. Based on this information, the Agency will be short $108,498 during the upcoming period. Nevertheless, when including the funding that is available from the prior period adjustment, sufficient funding is available to pay all bond debt service obligations of the Agency, including replenishing the unnecessary draw down of the Agency's bond reserves. Finance reiterates that upon distribution of the RPTTF the Agency is required to follow the priority of payments as outlined in the statutes.

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 Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Mike Trout, Project Manager
Ms. Vanessa Doyle, Auditor Controller Manager, County of San Bernardino
California State Controller's Office