



May 17, 2013

Mr. Eddie Manfro, City Manager
City of Westminster
8200 Westminster Boulevard
Westminster, CA 92683

Dear Mr. Manfro:

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 11, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Westminster Successor Agency (Agency) submitted a ROPS 13-14A to Finance on February 25, 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 26, 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 item being disputed.

- Items Nos. 3 and 4 – 2011 Tax Allocation Bonds Series A and B totaling \$58,820,707. Finance is no longer objecting to this item. Finance originally denied this item because the Agency failed to provide sufficient documentation to support the requested debt service payment. During the Meet and Confer process, the Agency provided the bond debt service payment schedules. Therefore, these line items are enforceable obligations and eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding on the ROPS.
- Item No. 42 – Property Improvements in the amount of \$6,702,693, funded by bond proceeds. Finance continues to deny this item. Finance originally denied this item because HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The Agency contends HSC Section 34163 (b) only applies to redevelopment agencies and is not applicable to successor agency; however, HSC Section 34177.3 (a) states Successor Agencies shall lack the authority to, and shall not, create new enforceable obligations or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011. Therefore HSC section 34163 (b) is applicable to the Agency.

Further, the Agency contends the bond issuance is an enforceable obligation with bond holders that must be upheld. The Agency does not intend to pursue this expense prior to a Finding of Completion. However, it is our understanding the bond proceeds to fund these improvements were issued after December 31, 2010. It is also our understanding that contracts for this line item has not yet been awarded. A Finding of Completion

allows the Agency to 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). Therefore, HSC section 34191.4 (c) (2) (B), requires bond proceeds issued after December 31, 2010 be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation. Therefore this item is not an enforceable obligation and not eligible for RPTTF funding.

- Item No. 43 – Public Improvements in the amount of \$790,389, funded by bond proceeds. Finance is no longer objecting to this item. During the Meet and Confer process, the Agency contends the April 11, 2013 letter incorrectly characterizes this expense as one associated with a City contract under dispute. This particular enforceable obligation is related to a separate contract with the former RDA. Based on additional supporting documents submitted by Agency during the Meet and Confer, this contract is between the Agency and a third party contractor and was entered into prior to June 27, 2011. Therefore, this item is an enforceable obligation and eligible for funding on the ROPS.
- Item No. 47 – Police and Parking Facility in the amount of \$8,546,616, funded by 2011 bond proceeds. Finance continues to deny this item. Finance originally denied this item in our letters dated December 18, 2012 and December 21, 2012. It is our understanding the original agreement and the amendment were contracts between the City and Griffin Structures, Inc. and the Agency is not a party to the Agreement. During the Meet and Confer process, the Agency contends the item is an enforceable obligation because the 1982 Agency-City relationship agreement, the Redevelopment Plan, and several resolutions of the City and the former RDA allow the City to contract on behalf of the former RDA. However, the 1982 agreement does not give the City the authority to enter into contracts on the behalf of the Agency. In addition, the Agency stated, the project is to be funded by the 2009 and 2011 bonds. 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.

Pursuant to HSC section 34191.4 (c) the Agency's requests to use the 2009 bond funds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance. For the 2011 bonds proceeds, Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010.

- Claimed administrative costs exceed the allowance by \$152,180. HSC section 34171 (b) limits fiscal year 2013-14 administrative expense to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$418,559 in administrative expenses. Although \$454,739 is claimed for administrative cost, Item No. 10 for legal services in the amount of \$100,000 is considered administrative expense. Upon reviewing additional documents provided by the Agency during the Meet and Confer process, it is our understanding the expense for Item No. 10 is for general legal services. Item No. 10 should be counted toward the cap, along with Item Nos. 11 and 17. Therefore, \$152,180 of excess administrative cost claimed is not allowed.

Although enforceable, the following items were not contested by the Agency and continue to be reclassified as administrative expense:

- Item No. 11 – Annual audit in the amount of \$ 12,000

- Item No. 17 – City Code and Document Storage in the amount of \$4,000
- Item No. 46 – Litigation Expenses in the amount \$150,000. Finance originally reclassified this item as administrative costs. During the Meet and Confer process, the Agency claims HSC Section 34171 (b) excludes litigation expenses from administrative allowance expense. However, it is our understanding this item relates to potential litigation the Agency may incur. Since actual obligations do not exist at this time, and the estimated cost is not supported, the expense cannot be construed as litigation. Therefore, this item is not an enforceable obligation and not eligible for funding on the ROPS at this time.

In addition, per Finance's ROPS letter dated April 11, 2013, the following items continue to be denied that were not contested by the Agency:

- Item No. 15 – Affordable Housing Monitoring in the amount of \$560,000. 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 of Westminster (City) assumed the housing functions, the monitoring costs associated with these functions is the responsibility of the housing successor. Therefore, these items are not enforceable obligations and not eligible for the Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item No. 44 – Westminster Improving Neighborhoods Grant Program in the amount of \$930,000. Based on information provided by the Agency, no formal agreements are in place for these loans, and the award letters provided as support state that they are not a 'promises of reimbursement'. Therefore, these items are not enforceable obligations and are not eligible for the RPTTF 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 Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$14,370,528 as summarized below:

Approved RPTTF Distribution Amount For the period of July through December 2013	
Total RPTTF funding requested for obligations	\$ 15,157,969
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 10*	100,000
Item 11*	12,000
Item 15	10,000
Item 17*	4,000
Item 44	930,000
Item 46	150,000
Total approved RPTTF for enforceable obligations	\$ 13,951,969
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	418,559
Minus: ROPS II prior period adjustment	-
Total RPTTF approved for distribution:	\$ 14,370,528

*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 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) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Mr. Eddi Manfro
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Please direct inquiries to Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.
Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Robin Roberts, City Clerk, City of Westminster
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office