



April 16, 2014

Ms. Ramona Castaneda, Fiscal Services Manager
City of Fullerton
303 West Commonwealth Avenue
Fullerton, CA 92832

Dear Ms. Castaneda:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Fullerton Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to the California Department of Finance (Finance) on March 13, 2014 for the period of July through December 2014. Finance has completed its review of your ROPS 14-15A, 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 for the reasons specified:

- Item No. 16 – Project T Grant Match in the amount of \$98,000. Finance continues to deny this item. These contracts are between the City of Fullerton (City) and various third-parties. The former redevelopment agency (RDA) is neither a party to the contract nor responsible for payment of the contract. Additionally, Finance denied these items as inclusions to the ROPS, later upheld through the Meet and Confer process in the letters dated May 17, 2013 and December 20, 2013. Therefore, this line item is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item No. 18 – Downtown Core & Corridors Specific Plan in the amount of \$1,321,860. Finance continues to deny this item. The contract is between the City and a third-party and the Agency is not a party to the contract. The Agency stated the RDA committed funds for the City's project per the City and RDA Cooperation Agreement dated January 25, 2011. However, HSC 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 creation date or for issuance of indebtedness to third-party investors or bondholders. Additionally, Finance denied these items as inclusions to the ROPS, later upheld through the Meet and Confer process in the letters dated May 17, 2013 and December 20, 2013. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item Nos. 19 and 20 – City and Agency Cooperation Agreements (Agreements) dated January 29, 2011 and June 7, 2011 totaling \$15,500,000. Finance continues to deny these items. The Agency contends the Agreements committed the RDA to fund the

related capital improvement projects. However, HSC 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 creation date or for issuance of indebtedness to third-party investors or bondholders. Additionally, Finance denied these items as inclusions to the ROPS, later upheld through the Meet and Confer process in the letters dated May 17, 2013 and December 20, 2013. Therefore, these line items are not enforceable obligations and are not eligible for RPTTF funding

- Item Nos. 23 and 28 – Affordable Housing Monitoring, Administration, and Reporting contracts totaling \$10,790,000. Finance continues to deny these items. Finance denied these items as the City Housing Division assumed the housing functions. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations, and housing assets...shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of administrative obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in AB x1 26/AB 1484. Additionally, Finance denied these items as inclusions to the ROPS, later upheld through the Meet and Confer process in the letters dated May 17, 2013 and December 20, 2013. Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding.
- Item No. 30 – Capital Improvement Projects in the amount of \$95,000. Finance continues to deny this item. Finance originally denied this item because the contract is between the City and Griffin Structures; the RDA is not a party to the contract. The Agency stated the City and RDA signed a cooperation agreement on January 29, 2011 committing RDA funding to the City agreement with Griffin Structures, Inc. However, HSC 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 creation date or for issuance of indebtedness to third-party investors or bondholders. Additionally, Finance denied these items as inclusions to the ROPS, later upheld through the Meet and Confer process in the letters dated December 18, 2012, May 17, 2013, and December 20, 2013. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item Nos. 46 – The Alexander (Affordable Housing Development) in the amount of \$2,250,000 from Reserve Funds. At the Agency's request, the funding source has been reclassified to Bond Proceeds. The Agency is requesting the use of pre-2011 bond proceeds for which they were given prior authorization to expend.

During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should be used prior to requesting RPTTF. Pursuant to HSC section 34177 (I) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. The Agency provided financial records that displayed available Other Funds totaling \$575,167.

Therefore, with the Agency's concurrence, the funding source for the following item has been reclassified to Other Funds and in the amount specified below:

- Item No. 2 – 2003 Certificate of Participation in the amount of \$905,000. The Agency requests \$905,000 of RPTTF; however, Finance is reclassifying \$575,167 to Other Funds. This item is an enforceable obligation for the ROPS 14-15A period. However, the obligation does not require payment from property tax revenues and the Agency has \$575,167 in available Other Funds. Therefore, Finance is approving RPTTF in the amount of \$329,833 and the use of Other Funds in the amount of \$575,167, totaling \$905,000.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2013 period. HSC section 34186 (a) also specifies 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 table below includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

Except for items denied in whole or in part as enforceable obligations or for items that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 14-15A. If you disagree with the determination with respect to any items on your ROPS 14-15A, 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 RPTTF distribution for the reporting period is \$7,070,208 as summarized below:

| Approved RPTTF Distribution For the period of July through December 2014 | |
|---|---------------------|
| Total RPTTF requested for non-administrative obligations | 9,543,907 |
| Total RPTTF requested for administrative obligations | 220,000 |
| Total RPTTF requested for obligations | \$ 9,763,907 |
| Total RPTTF requested for non-administrative obligations | 9,543,907 |
| <u>Denied Items</u> | |
| Item No. 16 | (45,000) |
| Item No. 18 | (330,465) |
| Item No. 19 | (1,000,000) |
| Item No. 20 | (500,000) |
| Item No. 23 | (60,000) |
| Item No. 28 | (65,000) |
| Item No. 30 | (47,500) |
| | (2,047,965) |
| Total RPTTF for non-administrative obligations | 7,495,942 |
| <u>Cash Balances - Items reclassified to other funding sources</u> | |
| Item No. 2 | (575,167) |
| | (575,167) |
| Total RPTTF authorized for non-administrative obligations | \$ 6,920,775 |
| Total RPTTF authorized for administrative obligations | \$ 220,000 |
| Total RPTTF authorized for obligations | \$ 7,140,775 |
| ROPS 13-14A prior period adjustment | (70,567) |
| Total RPTTF approved for distribution | \$ 7,070,208 |

Please refer to the ROPS 14-15A schedule that was used to calculate the approved RPTTF amount:

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

Absent a Meet and Confer, this is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2014. This determination only applies to items where funding was requested for the six-month period. 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 section 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 HSC section 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 Alexander Watt, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Charles Kovac, Project Manager, City of Fullerton
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office