



April 11, 2014

Mr. Steven Lantsberger, Deputy Director of Economic Development
City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345

Dear Mr. Lantsberger:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Hesperia Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to the California Department of Finance (Finance) on February 27, 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. 25 – Aleshire & Wynder, LLP litigation services in the amount of \$85,214. It is our understanding funding for this item is requested due to a Redevelopment Property Tax Trust Fund (RPTTF) shortfall in the January through June 2014 (ROPS 13-14B) period. According to the Report of Prior Period Adjustments, the Agency reports that it expended \$150,000 toward this obligation in the July through December 2013 (ROPS 13-14A) period. Finance then authorized the final payment for the obligation in the amount of \$150,000 for the ROPS 13-14B period. The San Bernardino County Auditor-Controller (CAC) reports the Agency received an RPTTF distribution totaling \$64,786 less than the amount Finance approved for the ROPS 13-14B period. Therefore, the RPTTF shortfall for the ROPS 13-14B period was \$64,786. However, the Agency requests shortfall funding totaling \$155,000 for Item Nos. 25 and 43. Finance authorizes the Agency to receive RPTTF in the amount of \$64,786 for Item No. 25 to cover the actual prior period shortfall. Therefore, the excess \$85,214 (\$150,000-\$64,786) is not eligible for RPTTF funding.
- Item No. 34 – Recycle Market Development Zone in the amount of \$758,398. Finance continues to deny this item. The Letter of Commitment from the former redevelopment agency (RDA) Chairman previously submitted by the Agency is not sufficient to determine the enforceability of this item. Additionally, this item was previously denied and upheld through the Meet and Confer process in the letter dated December 17, 2013. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 43 – Thompson Appraisals in the amount of \$5,000. It is our understanding funding for this item is requested due to an RPTTF shortfall in the ROPS 13-14B period. Finance authorized the final payment for this obligation in the amount of \$8,000 for the ROPS 13-14B period. The CAC reports the Agency received an RPTTF distribution totaling \$64,786 less than the amount Finance approved for the ROPS 13-14B period. Therefore, the RPTTF shortfall for the ROPS 13-14B period was \$64,786. However, the Agency requests shortfall funding totaling \$155,000 for Item Nos. 25 and 43. As noted above, Finance has authorized the entire shortfall funding in the amount of \$64,786 for Item No. 25. Therefore, this item is not eligible for RPTTF funding as the Agency received sufficient funds to pay this obligation.
- Item No. 48 – City of Hesperia (City) Loan/Advances for Administrative Costs/Enforceable Obligations totaling \$2,439,032. Finance partially approves this item. The Agency provided documentation to support a loan from the City for unfunded administrative costs totaling \$172,033 for the January through June 2012 (ROPS I), July through December 2012 (ROPS II), and ROPS 13-14A periods. However, the Agency was unable to provide sufficient documentation to support the remaining loan amount and identify the enforceable obligations paid by the City due to shortfalls in RPTTF. To the extent the Agency can provide suitable documentation to support the full amount requested, the Agency may be able to obtain RPTTF funding on future ROPS. Therefore, the excess \$2,266,999 (\$2,439,032-\$172,033) is not eligible for RPTTF funding.
- Item Nos. 51 and 52 – Victor Valley Economic Development Authority (VVEDA) Loans totaling \$1,077,842, payable from Other Funds. It is our understanding the Agency is requesting to utilize the funding disbursements it receives from the VVEDA Joint Powers Authority to pay the Hesperia Housing Authority (Authority) for loans made to VVEDA's non-housing funds from VVEDA's Low and Moderate Income Housing Fund (LMIHF).

HSC section 34191.4 (b) (2) (A) 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 fiscal year 2012-13 base year.

According to the County Auditor-Controller's report, the amount distributed to the taxing entities for fiscal year 2012-13 and 2013-14 are \$0 and \$0, respectively. Therefore, pursuant to the repayment formula, the maximum repayment amount authorized for fiscal year 2014-15 is \$0. Therefore, these items are not eligible for funding from Other Funds at this time.

- Item No. 60 – White, Nelson, Diehl, Evans, LLP Audit Review costs in the amount of \$30,000. The Agency was unable to provide an amended contract to support the increased audit amount. To the extent the Agency can provide suitable documentation, such as an amended contract or vendor invoices, to support the requested funding, the Agency may be able to obtain RPTTF funding on future ROPS. Therefore, Finance denies the increased audit costs of \$23,800 (\$30,000-\$6,200) over the amount approved in the ROPS 13-14B period.
- Item No. 61 – Payment to the City for real property transferred in January 2012 in the amount of \$297,421. Finance continues to deny this item. The Agency has stated it has

an obligation under the Disposition and Development Agreement (DDA) dated September 7, 2010, with Cinema West, LLC (Developer) to sell certain property to the Developer, and therefore must repay the City for the property that was transferred to the Agency for the fulfillment of the Agency's obligation under the DDA. However, the DDA states the certain property was owned by the Agency and the Developer agrees to pay a purchase price of \$102,529 to the Agency for the parcel. The Agency has not submitted sufficient documentation to support the obligation to pay the City for conveyance of the property. Additionally, this item was previously denied and upheld through the Meet and Confer process in the letter dated December 17, 2013. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 62 – City Loan/Advances for Administrative Costs/Enforceable Obligations totaling \$275,856. Finance partially approves this item. The Agency provided documentation to support a loan from the City for unfunded administrative costs totaling \$75,000 for the ROPS 13-14B period. However, the Agency was unable to provide sufficient documentation to support the remaining loan amount, nor identify the enforceable obligations paid by the City due to a shortfall in RPTTF for the ROPS 13-14B period. Furthermore, the Agency is already requesting RPTTF funding for Item Nos. 25 and 43 as a result of the RPTTF shortfall in the ROPS 13-14B period. To the extent the Agency can provide suitable documentation to support the full amount requested, the Agency may be able to obtain RPTTF funding on future ROPS. Therefore, the excess \$200,856 (\$275,856-\$75,000) is not eligible for RPTTF funding on this ROPS.
- Item No. 63 – Housing Entity Administrative Cost Allowance in the amount of \$600,000. Pursuant to HSC section 34171 (p), the housing entity administrative cost allowance is applicable only in cases where the city, county, or city and county that authorized the creation of the redevelopment agency (RDA) elected to not assume the housing functions. Because the housing entity to the former RDA is the City-formed Authority and the Authority operates under the control of the City, the Authority is considered the City under Dissolution Law. Therefore, \$600,000 of housing entity administrative allowance is not allowed.

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 (l) (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. VVEDA records indicate the Agency, as a member of the VVEDA Joint Powers Authority, received a funding disbursement in the amount of \$139,652 in the ROPS 13-14A period. As such, the Agency has available Other Funds totaling \$139,652.

Therefore, the funding source for the following items have been reclassified to Other Funds and in the amounts specified below:

- Item No. 25 – Aleshire & Wynder, LLP litigation services in the authorized amount of \$64,786. The Agency requests \$150,000 from RPTTF, and Finance has authorized the amount of \$64,786 for this item, as noted above. However, Finance is reclassifying \$64,652 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 \$139,652 in available Other Funds. Therefore, Finance is

approving RPTTF in the amount of \$134 and the use of Other Funds in the amount of \$64,652, totaling \$64,786.

- Item No. 62 – City Loan/Advances for Administrative Costs/Enforceable Obligations in the authorized amount of \$75,000. The Agency requests \$275,856 from RPTTF, and Finance has authorized the amount of \$75,000 for this item, as noted above. 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 \$139,652 in available Other Funds. Therefore, Finance is approving the use of Other Funds in the amount of \$75,000.

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 and for the 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 \$6,881,382 as summarized below:

| Approved RPTTF Distribution | |
|--|----------------------|
| For the period of July through December 2014 | |
| Total RPTTF requested for non-administrative obligations | 9,846,522 |
| Total RPTTF requested for administrative obligations | 165,500 |
| Total RPTTF requested for obligations | \$ 10,012,022 |
| Total RPTTF requested for non-administrative obligations | 9,846,522 |
| <u>Denied Items</u> | |
| Item No. 25 | (85,214) |
| Item No. 34 | (36,698) |
| Item No. 43 | (5,000) |
| Item No. 48 | (2,266,999) |
| Item No. 61 | (297,421) |
| Item No. 62 | (200,856) |
| Item No. 63 | (75,000) |
| | (2,967,188) |
| Total RPTTF for non-administrative obligations | 6,879,334 |
| <u>Cash Balances - Items reclassified to other funding sources</u> | |
| Item No. 25 | (64,652) |
| Item No. 62 | (75,000) |
| | (139,652) |
| Total RPTTF authorized for non-administrative obligations | \$ 6,739,682 |
| Total RPTTF requested for administrative obligations | 165,500 |
| <u>Denied Item</u> | |
| Item No. 60 | (23,800) |
| | (23,800) |
| Total RPTTF authorized for administrative obligations | \$ 141,700 |
| Total RPTTF authorized for obligations | \$ 6,881,382 |
| ROPS 13-14A prior period adjustment | 0 |
| Total RPTTF approved for distribution | \$ 6,881,382 |

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 Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Anne Duke, Deputy Finance Director, City of Hesperia
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office