



April 10, 2014

Ms. Donna Mullally, Manager of Fiscal Services
City of Irvine
1 Civic Center Place
Irvine, CA 92623

Dear Ms. Mullally:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Irvine 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. 13 – Amended Development Agreement in the amount of \$1,430,000,000. Finance continues to deny this item. This item was previously denied as an inclusion to the ROPS for the periods January through June 2013 (ROPS 3), July through December 2013, (ROPS 13-14A) and January through June 2014 (ROPS 13-14B) following the Meet and Confer sessions held on November 27, 2012, April 22, 2013 and November 18, 2013. Finance initially denied this item as HSC section 34177.3 (a) states that 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. Currently, there are no contracts in place and therefore, no enforceable obligations existed prior to June 28, 2011. While the Development Agreement was entered into prior to June 28, 2011 by the former redevelopment agency (RDA), it is not specific as to the total amount to be committed to the project.

The Agency contends that the Development Agreement is the enforceable obligation that obligates the Agency to construct a park on the Great Park Property substantially in compliance with the Great Park Master Plan. However, Section 3.9.4 of the Development Agreement states that “the City acknowledges and agrees that it will construct a park on the Great Park Property.” The “City” is defined as the City of Irvine. The Agency also contends that pursuant to Section 3.13 of the Development Agreement, the former RDA’s obligations are the same as the City’s obligations. However, it is unclear that this section places the financial obligations of the City under this agreement onto the former RDA. Specifically, in the Request for Irvine Redevelopment Agency Action presented to the former RDA Board on September 8, 2009 stated that “there is no

identifiable direct impact to the Irvine Redevelopment Agency from entering into the Amended and Restated Development Agreement.” Additionally, the resolution that was presented to the former RDA Board for approval only states that the Development Agreement “envisions inclusion of the Agency as a party, to ensure that the [former RDA] exercises its regulatory authority in a manner consistent with the rights and obligations agreed to by the City.” The former RDA Board does not appear to have approved or pledged the use of the former RDA’s tax increment funding to build a park or to assume any of the City’s financial obligations under the Development Agreement. Therefore, this item is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item No. 14 - Affordable Housing Grant Agreement in the amount of \$470,000,000. Finance continues to deny this item. This item was previously denied as an inclusion to the ROPS for the periods January through June 2013 (ROPS 3), July through December 2013, (ROPS 13-14A) and January through June 2014 (ROPS 13-14B) following the Meet and Confer sessions held on November 27, 2012, April 22, 2013 and November 18, 2013. HSC section 34177 (d) requires that all unencumbered balances in the Low and Moderate Income Housing Fund be remitted to the county auditor-controller for distribution to the taxing entities. The agreement was to use Housing Set Aside Funds, which no longer exists.

Additionally, the grant agreement is between the former RDA and the City of Irvine (City) as defined by HSC section 34167.10. Specifically, the Irvine Community Land Trust (ICLT) was created by the City, there are overlapping governing boards in that the President of the ICLT is a member of the City Council, the ICLT performs functions customarily or historically performed by municipalities, and the ICLT is included in the City’s CAFR and is identified as a component unit of the City in the CAFR. Although the ICLT is a separate legal entity from the City, HSC section 34167.10 (c) states that it shall not be relevant that the entity is formed as a separate legal entity. Pursuant to HSC section 34167.10 (a), the definition of “city” includes, but is not limited to, any reporting entity of the city for purposes of its comprehensive annual financial report (CAFR), any component unit of the city, or any entity controlled by the city or for which the city is financially responsible or accountable. Therefore, the grant agreement is between the City and the former RDA and is not an enforceable obligation pursuant to HSC section 34171 (d) (2).

Further, HSC section 34178 (a) states that a successor agency or an oversight board shall not exercise the powers granted by this subdivision to restore funding for an enforceable obligation that was deleted or reduced by the Finance pursuant to subdivision (h) of Section 34179 unless it reflects the decisions made during the Meet and Confer process with Finance or pursuant to a court order.

- Item 15 – Re-entered 2007 Purchase and Sale and Financing Agreement in the amount of \$755,084. The Agency received a Finding of Completion on April 26, 2013. As such, the Agency may place loan agreements between the former RDA and sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding the loan was for legitimate redevelopment purposes per HSC section 34191.4 (b) (1). Additionally, HSC section 34191.4 (b) (2) (A) specifies 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 Orange County Auditor-Controller's report, the ROPS residual pass-through amount distributed to the taxing entities for fiscal year 2012-13 and 2013-14 are \$4,328,712 and \$3,337,781, respectively. Pursuant to the repayment formula outlined in HSC section 34191.4 (b) (2) (A), the maximum repayment amount authorized for fiscal year 2014-15 is \$0. Therefore, the requested loan repayment is not eligible for funding on this ROPS. The Agency may be eligible for additional funding beginning ROPS 15-16A.

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. The Agency provided financial records that indicated the prior period adjustment (PPA) amount for the ROPS II period exceeded the actual amount expended during the ROPS 13-14A period by \$226,138; therefore, the Agency has \$226,138 in available Reserve Balances.

The Agency did not object to the reclassification for the following item has been reclassified to Reserve Balances and in the amount specified below:

Item No. 4 – Implementation Agreement No. 1 in the amount of \$380,000. The Agency requests \$380,000 from RPTTF; however, Finance is reclassifying \$226,138 to Reserve Balances. 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 \$226,138 in available Reserve Balances. Therefore, Finance is approving RPTTF in the amount of \$153,862 and the use of Reserve Balances in the amount of \$226,138, totaling \$380,000.

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, 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 \$79,543 as summarized below:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	62,657,726
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 62,782,726
Total RPTTF requested for non-administrative obligations	62,657,726
<u>Denied Items</u>	
Item No. 13	(56,493,565)
Item No. 14	(2,659,161)
Item No. 15	(3,000,000)
	(62,152,726)
<u>Cash Balances - Item reclassified to other funding sources</u>	
Item No. 4	(226,138)
Total RPTTF authorized for non-administrative obligations	\$ 278,862
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 403,862
Total ROPS 13-14A PPA	(324,319)
Total RPTTF approved for distribution	\$ 79,543

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.

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Please direct inquiries to Nichelle Thomas, Supervisor or Alexander Watt, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Teri Washle, Finance Administrator, City of Irvine
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office