



May 16, 2014

Ms. Cheryl Dyas, Director of Administrative Services
City of Mission Viejo
200 Civic Center
Mission Viejo, CA 92691

Dear Ms. Dyas:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 11, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Mission Viejo Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to Finance on February 27, 2014, for the period of July through December 2014. Finance issued a ROPS determination letter on April 11, 2014. 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 1, 2014.

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.

- Item No. 13 (Agency reported Item No. 12) – Crown Valley Widening Project costs in the amount of \$5,000. Finance no longer denies this item; however, Finance reclassifies this item as an administrative cost. Finance initially denied this item because the contract provided by the Agency had expired and the costs associated with Item No. 13 was not included in the Agency's total costs for the project. During the Meet and Confer process, the Agency contended that this item is an enforceable obligation because it is associated with the legal services provided by Stradling Yocca Carlson & Rauth related to the Crown Valley Widening Project. However, the legal services do not fall into any of the following categories that are specifically excluded from the administrative cap as defined by HSC section 34171 (b):
 - Any litigation expenses related to assets or obligations.
 - Settlements and judgments.
 - The costs of maintaining assets prior to disposition.
 - Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs.

Therefore, this item is being reclassified as an administrative cost and is eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding from the administrative cost allowance.

- Item No. 29 (Agency reported Item No. 17) – Supplemental Educational Revenue Augmentation Fund Loan Repayment in the amount of \$879,098. Finance no longer denies payment on this item. 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 original Orange County Auditor-Controller's (CAC) report, the ROPS residual pass-through amount distributed to the taxing entities for fiscal year 2012-13 and 2013-14 are \$3,313,801 and \$2,425,101, respectively. During the Meet and Confer process, the CAC indicated that the residuals were incorrectly reported and submitted the corrected amounts for fiscal years 2012-13 and 2013-14 in the amounts of \$666,906 and \$2,425,101, 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 \$879,098. Therefore, the requested repayment amount of \$879,098 is eligible for funding on this ROPS.

- Item No. 35 (Agency reported Item No. 21) – Legal costs in the amount of \$30,000. Finance no longer denies this item; however, Finance reclassifies this item as an administrative cost. Finance initially denied this item as it was our understanding the agreement entered into on February 21, 2006 is between the City and Richards, Watson & Gershon; the former RDA is not a party to the contract. During the Meet and Confer process, the Agency contended that this item is an enforceable obligation because it is related to anticipated litigation costs. However, the Agency has not provided any documents to show a current or impending litigation related to assets or obligations. Consequently, the legal services do not fall into any of the following categories that are specifically excluded from the administrative cap as defined by HSC section 34171 (b):
 - Any litigation expenses related to assets or obligations.
 - Settlements and judgments.
 - The costs of maintaining assets prior to disposition.
 - Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs.

Therefore, this item is being reclassified as an administrative cost and is eligible for RPTTF funding from the administrative cost allowance.

- Item Nos. 42 through 47 (Agency reported Item Nos. 23 through 28) – City Loan repayments totaling \$352,622. Finance continues to deny these items as presented; however, Finance has made various adjustments as detailed below. HSC section 34173 (h) allows the city, county, or city and county that authorized the creation of a RDA to loan or grant funds to an Agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion, when the property tax distribution is insufficient to fund all obligations. Further, an enforceable obligation shall be deemed to be created for the repayment of these loans. Finance initially denied these items because Oversight Board (OB) Resolution 2013-09, approving a

Cooperation Agreement and Loan Agreement (Agreement) between the City and the Agency, was denied in our determination letter dated November 10, 2013. As several of the items identified for funding in the Agreement did not appear on the January through June 2013 period (ROPS III), Finance was unable to determine whether all of the items identified for funding are in fact, enforceable obligations. During the Meet and Confer process, the Agency contended that the City advanced funds to the Agency to pay for the shortfalls in January through June 2012 (ROPS I) and ROPS III periods.

For Item No. 42, the Agency contends the legal costs were incurred during the ROPS III period to pursue litigation against Finance. However, these costs were not listed on the ROPS III form approved by Finance nor has the Agency provided any documents to show the litigation associated with the costs incurred during the ROPS III period. Therefore, had the Agency requested these costs on ROPS III, they would have been reclassified to the administrative cost allowance. HSC section 34171 (b) limits the administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. The Agency received the maximum administrative cost allowance allowed and reported expending the total amount for the period. As such, this item was incurred in excess of the ROPS III administrative cost allowance and is not eligible for additional funding on the ROPS. However, the Agency may choose to fund this item from the approved administrative cost allowance on this ROPS.

For Item No. 43, the Agency provided the wire transfer made for the payment on the 1999 Variable Rate Demand Revenue Bonds. This item was approved for \$362,500 from the RPTTF on ROPS III, Item No. 1; however, the Agency actually paid \$469,000. The 1999 Variable Rate Demand Revenue Bonds are listed as Item No. 1 on this ROPS for \$600,000 from the RPTTF. Item No. 43 remains denied; however, to fund the over expenditure on ROPS III, Finance will increase the Agency's request for Item No. 1 on this ROPS by \$106,500 (\$469,000 - \$362,000) for a total of \$706,500 from the RPTTF.

For Item No. 44, the Agency provided the cost breakdown for the legal costs related to bond covenant compliance. This item was approved for \$10,000 from the RPTTF on ROPS III, Item No. 2; however, the Agency actually incurred \$10,464. The bond covenant compliance costs are listed as Item No. 2 (Agency reported Item No. 3) on this ROPS for \$10,000 from the RPTTF. Item No. 44 remains denied; however, to fund the over expenditure on ROPS III, Finance will increase the Agency's request for Item No. 2 on this ROPS by \$464 (\$10,464 - \$10,000) for a total of \$10,464 from the RPTTF.

For Item No. 45, the Agency provided the invoice and backup documentation for KNN Public Finance for letter of credit replacement consulting service fees incurred during the ROPS III period. These costs were not listed on the ROPS III form approved by Finance; however, this item is an enforceable obligation that should have been paid to KNN Public Finance. Therefore, Finance is approving \$12,887 for the KNN Public Finance services.

For Item No. 46, the Agency provided the invoice for Arbitrage Compliance Specialists, Inc. for costs incurred during the ROPS III period. This item was not listed on ROPS III; however, this item is an enforceable obligation that should have been paid to Arbitrage Compliance Specialists, Inc. The arbitrage compliance fees are listed as Item No. 37 (Agency reported Item No. 2) on this ROPS for \$0 from the RPTTF. Item No. 46 remains denied; however, to fund the unapproved expenditure on ROPS III, Finance will

increase the Agency's request for Item No. 37 on this ROPS by \$2,100 for a total of \$2,100 from the RPTTF.

For Item No. 47, the Agency contends that the ROPS I administrative cost allowance was unfunded in the amount of \$202,369. For ROPS I, Finance approved \$1,113,221 in expenditures from the RPTTF, which included the Agency's request for \$140,960 of the administrative cost allowance. The CAC reported disbursing \$1,113,221 from the RPTTF. Therefore, all approved items on the ROPS I, including the administrative cost allowance requested, were fully funded. As such, this item was incurred in excess of the approved ROPS I administrative cost allowance and is not eligible for additional funding on the ROPS.

As such, Item No. 47 is not an enforceable obligation and Item Nos. 42 through 46 are not eligible for RPTTF funding as presented; however, the following adjustments have been made for the ROPS 14-15A:

- o For Item No. 42, legal costs may be paid from the administrative cost allowance.
- o Item No. 1 will be increased by \$106,500 for a total of \$706,500 from the RPTTF.
- o Item No. 2 will be increased by \$464 for a total of \$10,464 from the RPTTF.
- o For Item No. 45, \$12,887 is approved for the KNN Public Finance services.
- o Item No. 37 will be increased by \$2,100 for a total of \$2,100 from the RPTTF.

Finance, with concurrence from the Agency, also made an adjustment to the item number sequence on ROPS 14-15A for consistency with prior ROPS. Items which no longer require funding should be classified as "retired" but retain the number assigned to the obligation on the ROPS. Furthermore, item numbers may only be used once and new obligations of the Agency should be listed with the next available sequential number. The item numbers referenced above reflect the corrected numbering sequence, as well as the Agency reported item numbers for record keeping purposes. Pursuant to HSC section 34177 (a) (2) documents are to be provided in a manner of Finance's choosing; therefore, the obligations on ROPS 14-15A should be reported in the manner previously communicated to the Agency.

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 the items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 14-15A. The Agency's maximum approved RPTTF distribution for the reporting period is \$1,484,102 as summarized in the following table:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	1,990,034
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 2,115,034
Total RPTTF requested for non-administrative obligations	1,990,034
<u>Denied Items</u>	
Item No. 42	(28,302)
Item No. 43	(106,500)
Item No. 44	(464)
Item No. 46	(2,100)
Item No. 47	(202,369)
	(339,735)
<u>Reclassified Items</u>	
Item No. 13	(5,000)
Item No. 35	(20,000)
	(25,000)
Total RPTTF authorized for non-administrative obligations	\$ 1,625,299
Total RPTTF requested for administrative obligations	125,000
<u>Reclassified Items</u>	
Item No. 13	5,000
Item No. 35	20,000
Total RPTTF authorized for administrative obligations	\$ 150,000
Total RPTTF authorized for obligations	\$ 1,775,299
ROPS 13-14A prior period adjustment	(291,197)
Total RPTTF approved for distribution	\$ 1,484,102

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. During the ROPS 14-15A review, Finance requested financial records to support the cash balances reported by the Agency; however, Finance was unable to reconcile the financial records to the amounts reported. As a result, Finance will continue to work with the Agency after the ROPS 14-15A review period to properly identify the Agency's cash balances. If it is determined the Agency possesses cash balances that are available to pay approved obligations, the Agency should request the use of these cash balances prior to requesting RPTTF in ROPS 14-15B.

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

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

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

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Josephine Julian, Treasury Manager, City of Mission Viejo
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office