



May 16, 2014

Mr. John Raymond, Director of Community and Economic Development
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Dear Mr. Raymond:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 4, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Palm Springs Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to Finance on February 26, 2014, for the period of July through December 2014. Finance issued a ROPS determination letter on April 4, 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 April 16, 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 Nos. 6 and 17 – 2004 Convention Center Bonds in the amount of \$33,600,000. Finance continues to deny these items. Finance denied these items as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the former redevelopment agency (RDA) and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or are entered into at the time of issuance of indebtedness obligations. The Agency provided RDA Resolution Nos. 976 and 1327 dated May 1995 and June 2007, respectively, to support the amounts requested, and not the agreements. The resolutions were not made at the time of the issuance of the bonds. Additionally, the Supplemental Trust Agreement No. 3 provided for the issuance of 2004 Series A bonds is between the City of Palm Springs Financing Authority (Authority) and the City of Palm Springs (City), the former RDA is not a party to the agreement.

During the Meet and Confer process, the Agency contended that the City and former RDA followed the procedures in law at that time to approve the payment from tax increment. However, the resolutions were not made at the time of issuance and no other documentation was provided to show these items are enforceable obligations pursuant to HSC section 34171 (d). Therefore, this arrangement between the former RDA and the City is not considered an enforceable obligation under Dissolution Law and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item No. 53 – Plaza Theatre Maintenance in the amount of \$14,500 from the RPTTF. Finance did not select this item for review. However, during the Meet and Confer process, the Agency provided an estimate for emergency repairs needed for the air conditioning system in the amount of \$6,520 to be funded from the RPTTF during the ROPS 14-15A period. The Agency also provided Oversight Board (OB) Resolution No. 026, which approves payment for the repairs to occur on ROPS 14-15A from the RPTTF. Therefore, Finance is approving OB Resolution No. 026 and is increasing this item by \$6,520 from the RPTTF.
- Item No. 54 – Plaza Theatre Renovation in the amount of \$750,000. Finance continues to deny this item. The Agency is requesting funding to renovate the Plaza Theater property. Finance approved the sale of the subject property in the Agency's Long-Range Property Management Plan (LRPMP) in our letter dated March 25, 2014. HSC section 34181 (a) requires disposal of assets to be done in a manner aimed at maximizing value. The Agency provided an e-mail outlining the estimated cost associated with the recommended renovation as per Assessment of the Current Conditions report; however, Finance initially denied the item as no contracts are in place. HSC section 34163 (b) prohibits an agency from entering into new contracts or incur obligations for any purposes, including redevelopment activities (e.g. alteration, construction, reconstruction), after June 27, 2011.

During the Meet and Confer process, the Agency contended that the renovation is necessary to market the property. However, the Agency has not provided any other documents showing that an enforceable obligation existed prior to June 28, 2011, requiring the renovations. Furthermore, the renovation is not necessary to market the property as any repairs or improvements needed to the property would be disclosed to any potential buyers and would then be reflected in the sale price. Therefore, this item is not considered an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 58 – Cash flow loan RPTTF Withholding in the amount of \$1,503,000. Finance continues to deny this item. Finance denied this item because the Agency's OB Resolution No. 01, approving a loan agreement between the Agency and the City in the amount of \$1,500,000 to fund a shortfall in meeting the Low and Moderate Income Housing Fund Due Diligence Review (LMIHF DDR) demand amount was denied on January 29, 2014. Pursuant to HSC section 34171 (d), a loan to pay the LMIHF DDR demand amount does not meet the definition of an enforceable obligation. During the Meet and Confer process, the Agency contended the funds were not in the Agency's possession and the City provided the loan so the Agency could make the LMIHF DDR payment rather than having the County Auditor-Controller (CAC) withhold payment from the ROPS 13-14B RPTTF distribution. HSC section 34173 (h) allows cities to loan funds to successor agencies for administrative costs, enforceable obligations, or project-related expenses. This loan does not fall into any of these categories. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.

Finance understands that the Agency did not have control of these funds to meet the LMIHF DDR payment as they had been disbursed to a third party. However, since the disbursement was not made pursuant to an enforceable obligation, the funds should have been available for remittance to the CAC. As such, to the extent the City continues to seek repayment of the \$1.5 million, the only recourse available is to recover those

funds from the third party since the disbursement was not made pursuant to a valid agreement.

In addition, per Finance's letter dated April 4, 2014, we continue to make the following adjustment not contested by the Agency during the Meet and Confer:

- Item No. 60 – Cash flow loan for PMP Completion in the amount of \$25,000. Agency originally requested RPTTF funding for this item. Per Agency's e-mail dated March 6, 2014, the Agency requested that the correct funding source for this item should be Other Funds. Finance has reclassified requested RPTTF balance in the amount of \$25,000 to Other Funds to reflect the correct funding source.

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 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 the items that have been reclassified, 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 \$1,180,739 as summarized below:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	3,729,316
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 3,854,316
Total RPTTF requested for non-administrative obligations	3,729,316
<u>Denied Items</u>	
Item No. 6	(650,000)
Item No. 17	(150,000)
Item No. 54	(100,000)
Item No. 58	(1,503,000)
	<u>(2,403,000)</u>
<u>Reclassified Item</u>	
Item No. 60	(25,000)
	<u>(25,000)</u>
Total RPTTF authorized for non-administrative obligations	\$ 1,301,316
Total RPTTF requested for administrative obligations	125,000
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 1,426,316
ROPS 13-14A prior period adjustment	(245,577)
Total RPTTF approved for distribution	\$ 1,180,739

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: Mr. Geoffrey Klehl, Director of Finance, City of Palm Springs
Ms. Pam Elias, Chief Accountant Property Tax Division, Riverside County
California State Controller's Office