



April 27, 2012

Lisa L. Kim, Senior Project Manager
City of Orange
Economic Development Department
230 E. Chapman Avenue
Orange, CA 92866

Dear Ms. Kim:

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the City of Orange (City) submitted a revised Recognized Obligation Payment Schedule (ROPS) to the California Department of Finance (Finance) on April 13, 2012 for the periods January through June 2012 and July through December 2012. Finance staff contacted you for clarification of items listed in the ROPS.

HSC section 34171 (d) lists enforceable obligations (EO) characteristics. Finance has determined several of the line items included on the revised ROPS are not EOs. Based on our application of the law, the following items do not qualify as (EO).

January through June 2012 ROPS

- Item No. 26 – Tax Increment Administration Fee to County of Orange in the amount of \$325,199 due during the fiscal year 2011-2012. HSC section 34182 (e) states that county auditor-controller may charge the Redevelopment Property Tax Trust Fund for the cost of administering the provisions of this part. Therefore, the debt obligation is not an EO.
- Item No. 97 – Serrano Woods: Property acquisition & construction costs in the amount of \$7.1 million. HSC Section 34163 (b) states that an agency shall not enter into contracts or make commitments to, any entity, but not limited to, loan agreements. While the statement of intent to issue a loan was executed on March 9, 2011, the actual loan agreement was entered into November 8, 2011. Because there was no loan or contract in place prior to June 28, 2011, this item is not an EO.
- Items Nos. 27, 31, 36, 37, 38, 56, 57, 58, 59, 61, 62, 63, 64, 73 and 74 – Various projects funded with \$44.3 million in bond proceeds. HSC section 34177(i) states bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to decrease the bonds. ABx1 26 did not intend for successor agencies to enter into new contracts, unless those contracts are specifically required pursuant to the terms of another pre-existing contract that meets the requirements of ABx1 26, or are specifically required by bond indentures. There are no contracts to support the obligations.
- Item Nos. 112 through 115 – Administrative expenses of \$468,787. The HSC section 34171 (b) limits the 2011-12 administrative cost allowance to five percent of the property tax allocated to the successor agency or \$250,000, whichever is greater. The City is

allowed \$536,373 for administration costs. Therefore, \$468,787 of the claimed \$1,005,160 is not allowed.

July through December 2012 ROPS

- Item No. 28 - Tax Increment Administration Fee to County of Orange in the amount of \$6.9 million for the total outstanding debt or obligation. HSC section 34182 (e) states that county auditor-controller may charge the Redevelopment Property Tax Trust Fund for the cost of administering the provisions of this part. Therefore, the debt obligation is not an EO.
- Items Nos. 34, 35, 36, 48, 49, 50, 52, 57, and 58 – Various projects funded with \$34.4 million in bond proceeds. Section 34177(i) states bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to decrease the bonds. ABx1 26 did not intend for successor agencies to enter into new contracts, unless those contracts are specifically required pursuant to the terms of another pre-existing contract that meets the requirements of ABx1 26, or are specifically required by bond indentures. There are no contracts to support the obligations.
- Item Nos. 82 through 85 – Administrative expenses of \$9,251. The HSC section 34171 (b) limits the 2011-12 administrative cost allowance to three percent of the property tax allocated to the successor agency or \$250,000, whichever is greater. The City is allowed \$453,777 for administration costs. Therefore, \$9,251 of the claimed \$463,028 is not allowed.

As authorized by HSC section 34179 (h), Finance is returning your revised ROPS for your reconsideration. This action will cause the ROPS items noted above to be ineffective until Finance approval. Furthermore, items listed on future ROPS will be subject to review and may be denied as EOs.

If you believe we have reached this conclusion in error, please provide further evidence that the items questioned above meet the definition of an EO.

Please direct any inquiries to Chikako Takagi-Galamba, Supervisor or Wendy Griffe, Lead Analyst at (916) 322-2985.

Sincerely,



MARK HILL
Program Budget Manager

cc: On following page

Ms. Kim
April 27, 2012
Page 3

cc: Mr. John Sibley, Executive Director, City of Orange Successor Agency
Mr. Rick Otto, Assistant Executive Director, City of Orange Successor Agency
Mr. Frank Davies, Orange County Auditor Controller, Orange County Development
Agency