



May 17, 2013

Mr. Allen Jones, Deputy Chief of Staff, Mayor Filner  
City of San Diego Successor Agency  
202 C Street, 11th Floor  
San Diego, CA 92101

Dear Mr. Jones:

Subject: Recognized Obligation Payment Schedule

This letter supersedes California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS 13-14A) letter dated April 15, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of San Diego Successor Agency (Agency) submitted ROPS 13-14A to Finance for the period of July through December 2013. 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, 2013.

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.

- Agreements totaling \$38,726,531 include the following:
  - Item No. 1 – City Heights Section 108 Loan in the amount of \$1,615,765
  - Item No. 15 – Naval Training Center Section 108 Loan in the amount of \$6,033,042
  - Item No. 39 – Grantville Settlement Agreement in the amount of \$31,077,724

Finance originally denied these items because the underlying agreements are between the City of San Diego (City) and the former redevelopment agency. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. These agreements were entered into after the first two years of the former RDA's creation and not at the time of issuance of debt. Therefore, these items are not enforceable obligations. Upon receiving a Finding of Completion from Finance and after the oversight board makes a finding the loan was for legitimate redevelopment purposes, HSC section 34191.4 (b) may cause these items to be enforceable in future ROPS periods.

- Item No. 1 – City Heights Section 108 Loan in the amount of \$1,615,765. Finance no longer objects to this item. The Agency requested Finance to change the funding source from Redevelopment Property Tax Trust Fund (RPTTF) to Other. Finance agrees to the change. The amended HUD loan specifically references the purpose of the loan, the transfer of the funds through the RDA

and documents to secure payment from the developer. Therefore, this item is an enforceable obligation funded from Other funding source.

- Item No. 15 – Naval Training Center Section 108 Loan in the amount of \$6,033,042. The Agency contends that the Agreement is a valid obligation because it constitutes payments required by the Federal government. Finance continues to deny this item. The 2004 Federal HUD loan agreement is between the Federal Government and the City. The former RDA is neither a party to the contract nor responsible for payment of the contract. The March 2011 agreement is between the City and RDA therefore not an enforceable obligation under HSC Section 34171 (d) (2). Additionally, the March 2011 agreement indicates that the obligation to repay the HUD loan is that of the city, and therefore this item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 39 – Grantville Settlement Agreement in the amount of \$31,077,724. Finance no longer objects to this item. On August 29, 2008, a Court Stipulated Settlement Agreement (Settlement) was reached between the former RDA, the City, the County of San Diego (County), and other interested parties. The Settlement incorporated the Cooperation Agreement between the RDA and the City for the expenditure of \$31 million for the Grantville project area. HSC Section 34171 (d) (1) (D) states that judgments or settlements entered by a competent court of law or binding arbitration decisions are enforceable obligations.
- Item No. 87 – LaFornara v. Redevelopment Agency settlement in the amount of \$2 million. Finance originally denied the item because the final settlement has not yet been decided. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding at this time. The Agency contends that the \$2 million is a suitable estimate based upon knowledge of the case. During the Meet and Confer session, the Agency informed Finance that mediations were currently taking place. On May 4, 2013, Finance received an e-mail from Civic San Diego stating that a settlement agreement in the amount of \$1,990,000 has been reached and signed with LaFornara. The signed agreement was included with the email. Therefore, Finance no longer objects to this item but rather approves an amended obligation of \$1,990,000, disallowing \$10,000.
- Item No. 108 – Naval Training Center Disposition and Development Agreement in the amount of \$1 million. This agreement requires the Agency to reimburse the developer for costs incurred. Finance originally denied the item because the Agency acknowledged that the current request is an estimate and has not received a request for reimbursement from the developer at this time. The Agency provided additional documentation supporting their estimate, specifically, a letter from the developer specifying the current status of the project and a projection of what will be invoiced to the Agency through December, 2013. The letter supports the \$1 million request from the Agency. With additional documentation supporting the estimate, Finance no longer objects to this item.
- Item No. 144 – Historic Silverado Ballroom Restoration in the amount of \$1,379,358 funded in bond proceeds is not an enforceable obligation at this time. Finance continues to deny this item. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that the Rehabilitation Loan Agreement was entered into after June 27, 2011. Pursuant to HSC section 34191.4 (c), your request to use bond funds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance.

- Items No. 333 and 334 – University Avenue and El Cajon Boulevard (Blvd) Pedestrian Improvements totaling \$2,865,000 (\$2,300,000 and \$565,000, respectively) funded in bond proceeds are not enforceable obligations at this time. Finance continues to deny these items. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that contracts for these line items have not yet been awarded. Pursuant to HSC section 34191.4 (c), your request to use bond funds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance.
- Item No. 397 – Harbor Drive Pedestrian Bridge Project Management Costs in the amount of \$690,000. Finance continues to deny this item. It is our understanding that these expenditures were incurred by the City on behalf of the Agency for project management costs; however, there was no valid agreement in place. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding on this ROPS.
- Multiple Project Costs totaling \$10,911,905 using bond proceeds included with the list below:
  - Item No. 546 – El Cajon Blvd Streetlight in the amount of \$124,000
  - Item No. 547 – North Park Mini Park in the amount of \$1,305,000
  - Item No. 548 - El Cajon Blvd Streetlight in the amount of \$124,000
  - Item No. 549 – Home Ave Park Development in the amount of \$750,000
  - Item No. 550 - East Euclid Ave Pedestrian in the amount of \$206,000
  - Item No. 551 – City Heights Square Mini Park in the amount of \$198,905
  - Item No. 552 – Colina Park Neighborhood in the amount of \$2,817,000
  - Item No. 553 – North Chollas Community Park in the amount of \$2,887,000
  - Item No. 554 – New San Ysidro Library in the amount of \$2,500,000

Finance continues to deny these items. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that contracts for these line items were awarded after June 27, 2011. Pursuant to HSC section 34191.4 (c), your request to use bond funds for these obligations may be allowable once the Agency receives a Finding of Completion from Finance and if the bond proceeds requested for use were derived from bonds issued prior to January 1, 2011.

- Item Nos. 555 and 556 – Atmosphere and Hotel Metro funded with \$2,500,000 (\$1,250,000 per project) in housing bond proceeds. Finance is no longer denying these items. HSC section 34176 (g) authorizes the housing entity to designate the use of and commit bond proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the bond covenants. The proceeds shall be derived from indebtedness obligations that were issued for the purposes of affordable housing prior to January 1, 2011, and were backed by the Low and Moderate Income Housing Fund. During Meet and Confer, the Agency presented information indicating their compliance with HSC section 34176 (g) (1) (B). The following required conditions are met; therefore, these items are considered enforceable obligations:
  - Based on review of the confirmations and other documents provided by the housing entity, it appears that the use of bond proceeds is consistent with the bond covenants.
  - The Agency's financial records indicate that there are sufficient funds available.

In addition, per Finance's ROPS letter dated April 13, 2013, the following items continue to be denied and were not contested by the Agency:

- Item No. 183 – Permanent Homeless Shelter in the amount of \$777,824 funded in bond proceeds. After submission of its ROPS, the Agency advised Finance that it no longer requires the requested bond proceeds during the ROPS 13-14A period.
- Items No. 330 and 331 – 5 Points Pedestrian Improvements and Washington Street Median Improvements totaling \$355,300 using other funding sources (\$99,300 and \$256,000, respectively) are not obligations of the Agency. These agreements are between the City and third parties. The former RDA is neither a party to the contract nor responsible for payment of the contract. Therefore, these line items are not enforceable obligations and not eligible for funding on the ROPS.
- Item No. 479 and 480 – Reserve for Bond Debt Service on Non-Housing Bonds in the amount of \$21,961,749 using other funding sources. We note that item 479 requested \$0 for the upcoming six month period. The Agency contends this is for debt service beyond the period of this ROPS period and is from funding held in reserve for these payments. All unencumbered reserve funds will be remitted to the county auditor controller for distribution to the affected taxing entities as a result of the Due Diligence Reviews. Furthermore, HSC Section 34171(d)(1)(A), provides in pertinent part that “a reserve may be held when required by the bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year.” The Agency has received full funding for all their debt service payments to date and has not demonstrated that there will be an insufficient allocation during the next ROPS period for their debt service payments. Therefore, this item is not an enforceable obligation and is not eligible for funding from any source on this ROPS.
- ROPS 13-14A requested \$6,912,845 in reserve funding for enforceable obligations. Because any unencumbered reserve funding will be remitted to the county auditor controller for distribution to the affected taxing entities as a result of both the Low Mod Income Housing Fund Due Diligence Review and Other Funds and Accounts Due Diligence Review, Finance is changing the funding source to RPTTF for all items where reserve balances were requested.

In addition, the Agency previously advised Finance that Item No. 87 in the amount of \$2 million is disallowed from using bond funding and therefore it was also recoded to RPTTF. As a result, the total ROPS 13-14A RPTTF requested for enforceable obligations has increased by \$8,912,845.

- The Agency has requested that their allowable cost allowance be increased with the recoding of obligations to RPTTF funding. HSC section 34171 (b) permits the Agency an administrative cost allowance based upon three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. As a result of the recoding of obligations to RPTTF, the Agency's administrative cost allowance has been increased to \$1,766,918.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14A. This determination applies only to items where funding was requested for the six month period. If you disagree with the determination with respect to any items on your ROPS 13-14A, 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/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's maximum approved RPTTF distribution for the reporting period is \$58,296,611 as summarized below:

<b>Approved RPTTF Distribution Amount</b>	
<b>For the period of July through December 2013</b>	
Total RPTTF funding requested for obligations	\$ 51,185,124
Plus: Reserves/Bond reclassified as RPTTF	8,912,845
Minus: RPTTF reclassified as Other for Item 1	(201,923)
Minus: Six-month total for items denied	
Item 15	(388,779)
Item 87 (Partial)	(10,000)
Item 397	(600,000)
Total approved RPTTF for enforceable obligations	\$ 58,897,267
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	1,766,918
Minus: ROPS II prior period adjustment	(2,367,574)
<b>Total RPTTF approved for distribution:</b>	<b>\$ 58,296,611</b>

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 period. HSC Section 34186 (a) also specifies that the 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 above table includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

Please refer to the ROPS 13-14A schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14A Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS_13-14A_Forms_by_Successor_Agency/).

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2013. 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 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 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.

Mr. Allen Jones  
May 17, 2013  
Page 6

Please direct inquiries to Chikako Takagi-Galamba, Manager, or Anna Kyumba, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Jeff Graham, President, Civic San Diego  
Mr. Andrew Phillips, CFO, Civic San Diego  
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego  
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