



REVISED

December 27, 2012

Mr. David Graham, Deputy Policy Director
City of San Diego
202 C Street 11th Floor
San Diego, CA 92010

Dear Mr. Graham:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 19, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of San Diego Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on September 4, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 19, 2012. 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 November 29, 2012.

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. 26 through 36, 47 through 60, 83 through 85, and 99 through 102 are Cooperation Agreements or Loans with the City of San Diego (City) totaling \$4.8 billion. Finance continues to deny the items at this time. Agreements between the City and the former redevelopment agency (RDA) are not enforceable obligations (HSC section 34171 (d) (2)). Furthermore, we maintain that some or most of the items do not have contracts with third parties signed by June 27, 2011. Additionally, HSC section 34171 (d) (2) states that written agreements entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations. However, the agreements provided were not entered into at the time of issuance of the indebtedness obligations. Upon receiving a Finding of Completion from Finance, HSC section 34191.4 (b) may cause these items to be enforceable in future ROPS periods.
- Item No. 168 – North Embarcadero Visionary Plan in the amount of \$20.9 million funded by both Redevelopment Property Tax Trust Fund (RPTTF) and bond proceeds. Finance is no longer objecting to this project at this time. Finance originally denied the item, as HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011.

This issue involves a Joint Powers Agreement (JPA) between the City of San Diego, the Agency and the Port of San Diego for improvements to the waterfront open space, public right of way, roads, which was approved in December 2006 and signed in April of 2007. An amendment to the JPA was approved in signed in February of 2011. The Port of San Diego is the entity responsible for the construction and improvements, including all bidding and contracting. The Agency is solely responsible for providing the approved share of funding. Therefore, this item is currently an enforceable obligation of the Agency.

- Item No. 180 – Ninth & Broadway in the amount of \$20.2 million using bond proceeds. Finance no longer objects to the item.

Originally Finance denied the item as HSC section 34163 (c) prohibits a redevelopment agency from amending or modifying existing agreements with any entity for any purpose after June 27, 2011. The original DDA was contracted with Broadway Tower Associates, L.P. to close financing events by March 31, 2011 and commence construction by April 30, 2011. We continue to maintain that these events did not transpire according to the DDA; therefore, the original agreement is unenforceable. An amendment with the Broadway Tower Associates, L.P. was signed after June 27, 2011; however, Agencies are prohibited from entering into new contracts per HSC section 34163 (b). Therefore, this item is not an enforceable obligation. However, we do note that assuming the excess bond proceeds requested for use were issued prior to January 1, 2011, and once the Agency receives a Finding of Completion from Finance, the Agency will be allowed to expend the bond proceeds on the purposes for which they were issued on future ROPS per HSC section 34191.4 (c).

On December 24, 2012, the Agency presented new information previously not provided to Finance indicating their compliance with HSC section 34176 (g) (1) (A). HSC section 34176 (g) (1) (A) allows the housing successor to the former RDA to designate the use and commitment of excess housing 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. HSC section 34176 (g) (1) (A) also requires that the proceeds requested for use 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. On July 30, 2012, the successor housing entity notified the Agency of designations and commitments of housing bond proceeds and requested the items be listed separately on the ROPS III. The following required conditions are met; therefore, this item is now considered an enforceable obligation:

- The housing entity's bond counsel provided written confirmations that the use of the bond proceeds is consistent with the bond covenants. 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.
- Item No. 183 – Permanent Homeless Shelter. Finance continues to approve the portion of this project that was entered into prior to June 28, 2011, which totals \$32.4 million. The original agreement with Connections Housing Downtown, L.P. was signed March 1, 2011 for the amount of \$32.4 million and is an enforceable obligation. However, it is our understanding that the amendment, which was signed August 17, 2012 to increase funding to \$36.6 million, does not increase the obligation of the

Agency. The increase of \$4.2 million is to be borne solely by the developer through tax credits. Based on this understanding, and as previously explained during the December 24, 2012 discussion, the Agency's maximum enforceable obligation for this item continues to be \$32.4 million.

- Item No. 225 – Strategic Plan Economic Development Strategy in the amount of \$1.8 million. Finance continues to deny the 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 contracts for this line item have not been awarded. Therefore, this item is not an enforceable obligation.
- Item No. 332 – North Chollas Community Park in the amount of \$3.4 million are contracts with the City, Estrada + KEA Partnership, and Jeff Katz Architecture. Finance continues to deny the item because the former RDA is neither a party to the contract nor responsible for payment of the contract. As such, this item is not an enforceable obligation. Furthermore, the cooperation agreement, signed years later, claiming the former RDA's responsibility for payment for the project area is a contract between the City and the Agency. HSC section 34171 (d) (2) states that agreements between the City and the Agency are not enforceable.
- Item No. 335 thru 371 – Project Area Improvements in the amount totaling \$32.2 million. Finance continues to deny the items at this time. There are no contracts in place before June 28, 2011 to support these expenditures. As it relates to Items 342, 343, 357, and 358 the expenditure of funds is predicated on a cooperative agreement between the City of San Diego and the Agency. HSC section 34171 (d) (2) states that agreements between the City and the Agency are not enforceable. As such, those items remain denied at this time. We note that no funding was requested for Items 342, 343, or 357 on the ROPS III form. However, \$500,000 in other funds was requested for Item 358. We also note that assuming excess bond proceeds that were issued prior to January 1, 2011 are planned to be the funding source for any of these projects, once the Agency receives a Finding of Completion from Finance, the Agency will be allowed to expend the bond proceeds on the purposes for which they were issued on future ROPS per HSC section 34191.4 (c).
- Item No. 403 – Fire Station No. 2 in the amount of \$17.3 million. Finance continues to deny the item. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. We continue to maintain that contracts for this line item have not been awarded. Therefore, this item is not an enforceable obligation.
- Administrative costs funded by RPTTF exceed the allowance by \$1,638,792. HSC section 34171(b) limits administrative costs to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater for the fiscal year. As a result, the Agency's administrative cost allowance is capped at \$1,241,841 for the fiscal year. In the period July through December of 2012, \$318,461 of administrative allowance was used, leaving a remaining balance of \$923,380 for the January through June 2013 period. Therefore, \$1,638,792 of the claimed \$2,562,172 is denied. We note that Finance is no longer reclassifying Item 434 as an administrative cost. However, we continue to reclassify Item 476 as an administrative cost.

The Agency's maximum approved RPTTF distribution for the reporting period is: \$31,702,697 as summarized below:

| Approved RPTTF Distribution Amount For the period of January through June 2013 | |
|---|----------------------|
| Total RPTTF funding requested for obligations | \$ 76,591,121 |
| Less: Six-month total for item(s) denied or reclassified as administrative cost | |
| Item 26 thru 36, Item 47 thru 60, Item 83 thru 85, and Item 99 thru 102 | 45,561,804 |
| Item 476 * | 250,000 |
| Total approved RPTTF for enforceable obligations | \$ 30,779,317 |
| Plus: Allowable RPTTF distribution for administrative cost for ROPS III | 923,380 |
| Total RPTTF approved: | \$ 31,702,697 |
| * Reclassified as administrative cost | |
| Administrative Cost Calculation | |
| Total RPTTF for the period July through December 2012 | \$ 10,615,381 |
| Total RPTTF for the period January through June 2013 | 30,779,317 |
| Total RPTTF for fiscal year 2012-13: | \$ 41,394,698 |
| Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000) | 1,241,841 |
| Administrative allowance for the period of July through December 2012 | 318,461 |
| Allowable RPTTF distribution for administrative cost for ROPS III: | \$ 923,380 |

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

The amount available from the RPTTF is the same as the 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.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 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 questioned on this ROPS or a preceding ROPS.

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Please direct inquiries to Evelyn Sues, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Andrew Phillips, Chief Financial Officer of Civic San Diego, City of San Diego
Mr. Juan Perez, Senior Auditor and Controller Manager, San Diego County
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, San Diego County
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