



December 18, 2012

Brad Raulston, Executive Director
National City
1243 National City Blvd.
National City, CA 91950

Dear Mr. Raulston:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 7, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of National City Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 16, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 7, 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 14, 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 86 – Loan from Sewer Fund in the amount of \$760,000. Finance continues to deny this item. The item is a loan between the former redevelopment agency (RDA) and the City. According to HSC section 34171 (d)(2) loans between the city that created the RDA and the former RDA are not enforceable obligations unless the loan agreement was entered into within the first two years of the creation of the RDA. HSC section 34191.4 states that upon receiving a Finding of Completion, loan agreements between the city that created the RDA and the Agency may become enforceable obligations if the oversight board makes a finding that the loan was for legitimate redevelopment purposes.
- Items 10 and 11 – WI-TOD totaling \$6 million in Low and Moderate Income Housing Funds. Finance continues to deny these items. Finance denied because no contracts were in place by June 27, 2011. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The Agency contends these items are in continuance of a Development and Disposition Agreement (DDA) between the former RDA and a third party dated June 21, 2011. Further review of the DDA shows the Agency is not required to perform these items; therefore, these are not enforceable obligations and not eligible for payment from the Low and Moderate Income Housing Fund.

- Items 43, 57, 94, and 95 in the amount of \$6,691,638. Finance continues to deny these items. Finance denied these items because HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011 and no contracts were provided to support these items. We note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010. The bond proceeds requested for use were issued in 2011. Therefore, this item is not an enforceable obligation.
- Item No. 93 – Replenish Reserves in the amount of \$4.27 million. Finance continues to deny this item. Finance denied this item because requesting funds to reimburse unfunded obligations of the former RDA for a period that occurred prior to the dissolution of redevelopment is not an enforceable obligation. In the event the Agency does not receive sufficient Redevelopment Property Tax Trust Fund (RPTTF) funding in a given ROPS period the City is authorized to loan funds to the Agency to pay for approved enforceable obligations. However, this loan was made in order to pay for the July 2012 residual payment demand. As such, it is not an enforceable obligation and is not eligible for RPTTF funding on this ROPS.
- Item No. 99 in the amount of \$2 million for a pending legal settlement. Finance continues to deny this item. Finance previously denied this item because HSC 34171 (d) outlines characteristics of enforceable obligations and does not recognize reserves set aside as enforceable obligations other than for bond indebtedness. The Agency contends a ruling was handed down; however, the Agency appealed the decision and a final settlement agreement has not been entered by a competent court of law or binding arbitration decision as required by HSC section 34171 (d) (1) (D). Pending settlements do not meet the definition of an enforceable obligation. Therefore, the \$1 million reserve is not enforceable and not eligible for funding at this time. Once a final settlement agreement or binding arbitration decision has been entered by the court, the Agency may resubmit this item on a future ROPS for additional consideration.
- Item 89 – Legal Services for Oversight Board in the amount of \$100,000. Finance reclassified this item. HSC section 34171 (b) allows litigation expenses related to assets or obligations to be funded with property tax outside the administrative cap. However, Item 89 relates to general legal representation and not specifically to bringing or contesting a legal action in court; therefore, it is considered an administrative cost and Finance continues to reclassify this item as administrative costs.
- Item 144 – Contract for Legal Services in the amount of \$50,000. Finance originally reclassified this item as administrative costs. Finance no longer reclassifies this item as administrative costs. This item falls into the category of litigation expenses specifically excluded from the administrative cap as defined by HSC 34171 (b). We do note, however, the contract limits costs to \$25,000 and not the \$50,000 the Agency listed as an outstanding obligation on the ROPS. Since the amount requested for the ROPS III period does not exceed \$25,000, Finance takes no action on this item at this time.
- Claimed administrative costs exceed the allowance by \$194,651. HSC section 34171 (b) limits fiscal year 2012-13 administrative expenses to three percent of property tax

allocated to the successor agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$266,889 in administrative expenses. The county auditor-controller did not distribute administrative costs for the July through December 2012 period, thus leaving a balance of \$266,889 available. Although \$249,000 is claimed for administrative cost, items 88, 89, 90, 101, 126, 127, 133, 134, 135, 136, 138, and 139 totaling \$212,540 are considered general administrative expenses and should be counted towards the cap. Therefore, \$194,651 of excess administrative cost claimed is not allowed.

For Items 90 and 101, the Agency contends the items are enforceable obligations per HSC section 34171 (b); Item 90 is related to the Due Diligence review required per HSC section 34197.5 and Item 101 is for property management costs of Agency assets prior to property disposition. Although Finance agrees that these items may be enforceable obligations outside of the administrative cost cap, the Agency did not provide documentation to demonstrate its position. Therefore, at this time, we continue to reclassify these items as administrative costs. If the Agency is able to provide sufficient documentation to support these items, it may claim these items as enforceable obligations on a future ROPS.

In addition, per Finance's ROPS letter dated October 7, 2012, the following items not disputed by the Agency continue to be denied:

- Item No. 91 – July through December 2012 funding shortfall in the amount of \$4 million does not meet the definition of an enforceable obligation. While Finance may have approved RPTTF funding that exceeded the amount available, the ability to fund items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF. HSC section 34173 (h) allows for a city to loan funds to a successor for administrative costs and enforceable obligations, and put the repayment of these loans on the subsequent ROPS. This does not appear to be the case for this item. Additionally, it is not evident that this item is tied to a specific enforceable obligation or obligations, but merely a plug to account for the difference between what was approved by Finance and what was actually received. Therefore, this item is not an enforceable obligation and not eligible for RPTTF funding.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$4,587,117 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 14,221,104
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item No. 86	420,000
Item No. 91	3,995,503
Item No. 93	4,272,833
Item No. 99	1,000,000
Item No. 88	30,000
Item No. 89	30,000
Item No. 90	18,000
Item No. 101	30,000
Item No. 126	20,000
Item No. 127	25,000
Item No. 133	414
Item No. 134	3,600
Item No. 135	1,200
Item No. 136	126
Item No. 138	51,000
Item No. 139	3,200
Total approved RPTTF for enforceable obligations	<u>\$ 4,320,228</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>266,889</u>
Total RPTTF approved:	\$ 4,587,117
Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 4,576,072
Total RPTTF for the period January through June 2013	4,320,228
Total RPTTF for fiscal year 2012-13:	\$ 8,896,300
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	266,889
Administrative allowance for the period of July through December 2012	-
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 266,889

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

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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.

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Juan Perez, Senior Auditor and Controller Manager, San Diego County
California State Controller's Office