



May 16, 2014

Mr. Steven Lantsberger, Deputy Director of Economic Development
City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345

Dear Mr. Lantsberger:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 11, 2014. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Hesperia Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to Finance on February 27, 2014, for the period of July through December 2014. Finance issued a ROPS determination letter on April 11, 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 28, 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 No. 25 – Aleshire & Wynder, LLP litigation services in the amount of \$150,000. Finance continues to deny \$64,786 of this item. It was our initial understanding that the Agency is requesting funding for this item due to a Redevelopment Property Tax Trust Fund (RPTTF) shortfall in the January through June 2014 (ROPS 13-14B) period. During the Meet and Confer process, the Agency requested clarification on the calculations for this item and clarified that this item consists of expenditures incurred and paid by the City of Hesperia (City) as well as anticipated costs for ROPS 14-15A. In the ROPS 13-14B period, Finance authorized the payment for this item in the amount of \$150,000. The San Bernardino County Auditor-Controller (CAC) reported that the Agency received a RPTTF distribution totaling \$5,645,852, which is \$64,786 less than the Finance approved amount of \$5,710,638 for the ROPS 13-14B period. Therefore, the RPTTF shortfall for the ROPS 13-14B period was \$64,786, which would be the total costs that could be covered under a City loan. However, the Agency has already requested the repayment of City loans on Item Nos. 48 and 62. Therefore, the Agency cannot claim repayment of the City loan in this item as well. As such, \$64,786 of this item related to the ROPS 13-14B RPTTF shortfall is not eligible for payment on this item and Finance is approving \$85,214 (\$150,000 - \$64,786) in RPTTF for anticipated costs to be incurred in the ROPS 14-15A period.

- Item No. 34 – Recycle Market Development Zone (RMDZ) in the amount of \$758,398. Finance continues to deny this item. Finance initially denied this item as the Letter of Commitment from the former Redevelopment Agency (RDA) Chairman is not sufficient to determine the enforceability of this item. During the Meet and Confer process, the Agency contended that this item is an enforceable obligation pursuant to HSC section 34171 (d) (1) (E). However, the Agency was unable to provide a Memorandum of Understanding or other agreement with CalRecycle related to the former RDA's obligation under the RMDZ program. Without an executed agreement between the former RDA and CalRecycle entered into prior to June 28, 2011, Finance is unable to determine the former RDA's obligation under the RMDZ program, if any. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 43 – Thompson Appraisals in the amount of \$5,000. Finance no longer denies this item. It was our initial understanding that funding for this item is requested due to an RPTTF shortfall in the ROPS 13-14B period. During the Meet and Confer process, the Agency clarified that this item consists of anticipated costs for ROPS 14-15A in furtherance of preparing the Long-Range Property Management Plan. Therefore, this item is eligible for RPTTF funding in the ROPS 14-15A period.
- Item No. 48 – City of Hesperia (City) Loan/Advances for Administrative Costs/Enforceable Obligations totaling \$2,439,032. Finance continues to approve \$172,033 of this item. After the initial review, Finance partially approved based on documentation provided by the Agency to support a loan from the City for unfunded administrative costs totaling \$172,033 for the January through June 2012 (ROPS I), July through December 2012 (ROPS II), January through June 2013 (ROPS III), and ROPS 13-14A periods. However, the Agency was unable to provide sufficient documentation to support the remaining loan amount and identify the enforceable obligations paid by the City due to shortfalls in RPTTF.

During the Meet and Confer process, the Agency provided general ledgers for expenditures incurred by the Hesperia Community Development Commission and the Hesperia Housing Authority within each ROPS period. However, the Loan Agreement provided is between the City and the Agency and the payee listed on the ROPS is the City. To the extent the Agency can provide documentation (e.g., accounting records, invoices of expenditures incurred, checks showing payment using City funds, and the line items approved on each ROPS) to support the full amount requested was paid by the City, the Agency may be able to obtain RPTTF funding on future ROPS. Therefore, the excess \$2,266,999 (\$2,439,032-\$172,033) is not eligible for RPTTF funding at this time.

- Item Nos. 51 and 52 – Victor Valley Economic Development Authority (VVEDA) Loans totaling \$1,077,842, payable from Other Funds. Finance approves Item Nos. 51 and 52 for \$0. It is our understanding the Agency is requesting to utilize the funding disbursements it receives from the VVEDA Joint Powers Authority to pay the Hesperia Housing Authority (Authority) for loans made to VVEDA's non-housing funds from VVEDA's Low and Moderate Income Housing Fund (LMIHF).

For Item No. 51, based upon further review during the Meet and Confer process, it appears that this was a loan from the VVEDA LMIHF to the VVEDA non-housing funds, which was not related to a SERAF loan repayment. The Agency did not provide a loan

agreement between the former RDA and VVEDA for this loan or any other information and documents indicating under what authority the former RDA borrowed these VVEDA LMIHF funds. Additionally, it is unclear when this loan was made or if the borrower was the former RDA or the City. Although Finance is approving this item on ROPS 14-15A, Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. This item will be subject to subsequent review in ROPS 14-15B and may be denied even if it was not denied on this ROPS or a preceding ROPS.

Therefore, for Item Nos. 51 and 52, HSC section 34191.4 (b) (2) (A) allows the repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the taxing entities in the fiscal year 2012-13 base year. According to the CAC's report, the amount distributed to the taxing entities for fiscal years 2012-13 and 2013-14 are \$0 and \$0, respectively. Therefore, pursuant to the repayment formula, the maximum repayment amount authorized for fiscal year 2014-15 is \$0. During the Meet and Confer process, the Agency contended that they made a \$4,277,499 distribution to the CAC for the LMIHF Due Diligence Review (DDR) therefore residuals should be available for the repayment calculation. However, distributions pursuant to the DDRs are not included in the calculation of ROPS residuals distributed. Therefore, these items are not eligible for funding from Other Funds at this time.

- Item No. 60 – White, Nelson, Diehl, Evans, LLP Audit Review costs in the amount of \$30,000. Finance no longer denies this item. Finance initially denied a portion of this item as the Agency was unable to provide an amended contract to support the increased audit amount. Based upon further review during the Meet and Confer process, it appears that the Agency is requesting to fund this item from the administrative cost allowance. HSC section 34171 (b) limits the fiscal year 2014-2015 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. The Agency has not exceeded the administrative cost allowance cap. Therefore, Finance no longer denies this item from the administrative cost allowance.
- Item No. 61 – Payment to the City for real property transferred in January 2012 in the amount of \$297,421. Finance continues to deny this item. The Agency has stated it has an obligation under the Disposition and Development Agreement (DDA) dated September 7, 2010, with Cinema West, LLC (Developer) to sell certain property to the Developer, and therefore must repay the City for the property that was transferred to the Agency for the fulfillment of the Agency's obligation under the DDA. However, Finance denied the item as the DDA states the certain property was owned by the Agency and the Developer agrees to pay a purchase price of \$102,529 to the Agency for the parcel. The Agency has not submitted sufficient documentation to support the obligation to pay the City for conveyance of the property.

During the Meet and Confer process, the Agency contended that they have documentation to validate the acquisition of the real property from the City and that the former RDA was obligated to pay the City. However, when such documents were requested, the Agency only provided resolutions from the City and the former RDA approving the sale and purchase of the property from the City to the former RDA and authorizing the execution of all purchase documents. The Agency stated that no formal purchase and sale agreement or promissory note for the sale of the property from the

City to the former RDA was ever executed. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 62 – City Loan/Advances for Administrative Costs/Enforceable Obligations totaling \$275,856. Finance continues to approve this item in the amount of \$75,000. Finance partially approved this item because the Agency provided documentation to support a loan from the City for unfunded administrative costs totaling \$75,000 for the ROPS 13-14B period. However, the Agency was unable to provide sufficient documentation to support the remaining loan amount, nor identify the enforceable obligations paid by the City due to a shortfall in RPTTF for the ROPS 13-14B period. During the Meet and Confer process, the Agency only provided a payroll history report as of February 19, 2014, and a general ledger as of February 24, 2014. The Agency did not provide any other documents to support the remaining loan amount or which enforceable obligations that amount applies to on ROPS 13-14B. To the extent the Agency can provide documentation (e.g., accounting records, invoices of expenditures incurred, checks showing payment using City funds, and the line items approved on ROPS 13-14B) to support the full amount requested, the Agency may be able to obtain RPTTF funding on future ROPS. Therefore, the excess \$200,856 (\$275,856 - \$75,000) is not eligible for RPTTF funding on this ROPS.
- During our initial review, which may have included obtaining financial records, Finance determined the Agency possessed funds that should be used prior to requesting RPTTF. Pursuant to HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. VVEDA records indicate the Agency received a funding disbursement in the amount of \$139,652 in the ROPS 13-14A period. As such, the Agency has available Other Funds totaling \$139,652.

During the Meet and Confer process, the Agency contended that the Other Funds were to pay Item Nos. 51 and 52; however, Finance determined that \$0 is due on Item Nos. 51 and 52 for the ROPS 14-15A period. Therefore, the funding source for the following items continues to be reclassified to Other Funds and in the amounts specified below:

- Item No. 25 – Aleshire & Wynder, LLP litigation services in the authorized amount of \$85,214. The Agency requested \$150,000 from RPTTF, and Finance has authorized the amount of \$85,214 for this item, as noted above. However, Finance is reclassifying \$64,652 to Other Funds. This item is an enforceable obligation for the ROPS 14-15A period. However, the obligation does not require payment from property tax revenues and the Agency has \$139,652 in available Other Funds. Therefore, Finance is approving RPTTF in the amount of \$20,562 and the use of Other Funds in the amount of \$64,652, totaling \$85,214.
- Item No. 62 – City Loan/Advances for Administrative Costs/Enforceable Obligations in the authorized amount of \$75,000. The Agency requests \$275,856 from RPTTF, and Finance has authorized the amount of \$75,000 for this item, as noted above. This item is an enforceable obligation for the ROPS 14-15A period. However, the obligation does not require payment from property

tax revenues and the Agency has \$139,652 in available Other Funds. Therefore, Finance is approving the use of Other Funds in the amount of \$75,000.

In addition, per Finance's letter dated April 11, 2014, we continue to deny the following item not contested by the Agency during the Meet and Confer:

- Item No. 63 – Housing Entity Administrative Cost Allowance in the amount of \$600,000. Pursuant to HSC section 34171 (p), the housing entity administrative cost allowance is applicable only in cases where the city, county, or city and county that authorized the creation of the RDA elected to not assume the housing functions. Because the housing entity to the former RDA is the City-formed Authority and the Authority operates under the control of the City, the Authority is considered the City under Dissolution Law. Therefore, \$600,000 of housing entity administrative allowance is not allowed.

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 and 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 \$6,930,610 as summarized below:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	9,846,522
Total RPTTF requested for administrative obligations	165,500
Total RPTTF requested for obligations	\$ 10,012,022
Total RPTTF requested for non-administrative obligations	9,846,522
<u>Denied Items</u>	
Item No. 25	(64,786)
Item No. 34	(36,698)
Item No. 48	(2,266,999)
Item No. 61	(297,421)
Item No. 62	(200,856)
Item No. 63	(75,000)
	(2,941,760)
Total RPTTF for non-administrative obligations	6,904,762
<u>Cash Balances - Items reclassified to other funding sources</u>	
Item No. 25	(64,652)
Item No. 62	(75,000)
	(139,652)
Total RPTTF authorized for non-administrative obligations	\$ 6,765,110
Total RPTTF requested for administrative obligations	165,500
Total RPTTF authorized for administrative obligations	\$ 165,500
Total RPTTF authorized for obligations	\$ 6,930,610
ROPS 13-14A prior period adjustment	0
Total RPTTF approved for distribution	\$ 6,930,610

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),

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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: Ms. Anne Duke, Deputy Finance Director, City of Hesperia
Ms. Linda Santillano, Property Tax Manager, San Bernardino County
California State Controller's Office