



December 17, 2015

Ms. Diana De Anda, Finance Director  
City of Loma Linda  
25541 Barton Road  
Loma Linda, CA 92354

Dear Ms. De Anda:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated October 17, 2015. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Loma Linda Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16B) to Finance on September 10, 2015, for the period of January 1 through June 30, 2016. Finance issued a ROPS determination letter on October 17, 2015. Subsequently, the Agency requested a Meet and Confer session on one or more of the determinations made by Finance. The Meet and Confer session was held on November 10, 2015.

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 determinations being disputed.

- Item No. 39 – Housing Entity Administrative Cost Allowance in the amount of \$750,000. Finance continues to deny this item. During the Meet and Confer process, the Agency continued to object to Finance's determination; however, no new information was provided. Finance denied this item because 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 redevelopment agency (RDA) elected to not assume the housing functions. Because the housing entity to the former RDA of the City of Loma Linda (City) is the City-formed Housing Authority (Authority), and the Authority operates under the control of the City, the Authority is considered the City under Dissolution Law (ABx1 26 and AB 1484).

The Agency contends that the City elected not to retain the housing functions, but the Authority, as a separate legal entity from the City, did retain the housing functions pursuant to HSC section 34176 (b) and should therefore be eligible for the housing entity administrative allowance. However, pursuant to HSC section 34167.10 (a), the definition of "city" includes, but is not limited to, any reporting entity of the city for purposes of its comprehensive annual financial report (CAFR), any component unit of the city, or any entity controlled by the city or for which the city is financially responsible or accountable. HSC section 34167.10 (a) defines "city" for purposes of all of Dissolution

Law, which includes HSC section 34171, as amended by AB 471, and HSC section 34176. The Authority is included in the City's CAFR, which identifies the Authority as a component unit of the City and states that the City is financially accountable for the component units.

Although the Authority is a separate legal entity from the City, HSC section 34167.10 (c) states that it shall not be relevant that the entity is formed as a separate legal entity. It should also be noted that HSC section 34167.10 (c) goes on to state that "the provisions of this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part [Part 1.8] and Part 1.85...and any attempt to determine otherwise would thwart the intent of these two parts." Therefore, based on our review, the City, by way of the Authority, elected to retain the housing functions pursuant to HSC section 34176 (a) and is not eligible for \$750,000 of housing entity administrative allowance.

- Item No. 40 – Oversight Board Counsel Legal services in the amount of \$2,500 continues to be reclassified to the Administrative Cost Allowance (ACA). Pursuant to HSC section 34171 (d) (1) (F) (i), legal expenses related to civil actions, including writ proceedings, contesting the validity of the dissolution law, or challenging acts taken pursuant to the dissolution law shall only be payable from the ACA. This item relates to costs incurred by the Agency in challenging Finance's determination related to ROPS Item No. 15, which has been settled. Therefore, this item is considered to be a general administrative cost, and has been reclassified to ACA.
- Item No. 45 – Litigation costs totaling \$157,789, payable to the City of Loma Linda (City). Finance continues to deny this item. During the Meet and Confer, the Agency claimed that the settlement agreement entered into between the Agency and Finance expressly allows for the Agency's litigation costs to be recoverable through the ROPS process. However, there is no such express statement. The settlement agreement provides that the parties shall each bear their respective attorney fees and costs incurred in the litigation and that this provision is not intended to "impair the right (*if any*) of the [Agency] to recover its attorney fees and costs relating to the [litigation] via the ROPS process." As a result, there was no agreement that the Agency had any right to fees nor any prohibition on Finance from reviewing the Agency's claims for fees.

Generally, legal expenses related to civil actions, including writ proceedings, contesting the validity of the dissolution law, or challenging acts taken pursuant to the dissolution law shall only be payable from the ACA. Here, however, it is our understanding the City advanced \$157,789 to the Agency for litigation services provided by Rutan & Tucker, LLC. Thus, the Agency is not seeking payment of legal expenses, rather the Agency is seeking reimbursement to the City for an advance.

HSC section 34173 (h) (1) allows the City to loan funds to agencies for administrative costs or enforceable obligations, but only to the extent the agency receives an insufficient RPTTF distribution. The San Bernardino County-Auditor Controller distribution reports indicate the Agency received sufficient distributions to fund approved enforceable obligations during the ROPS I through ROPS 15-16A periods. In addition, the Agency's Oversight Board resolution pertaining to these litigation costs, which was submitted to Finance on September 15, 2015 for review, was denied in our letter to the Agency dated October 16, 2015. We also note that the litigation costs were not

reflected on the Agency's ROPS. As a result, no enforceable obligation is created by the City's advance and this item is not eligible for RPTTF funding.

Pursuant to HSC section 34186 (a) (1), the Agency was required to report on the ROPS 15-16B form the estimated obligations versus actual payments (prior period adjustment) associated with the January through June 2015 period (ROPS 14-15B). HSC section 34186 (a) (1) also specifies the prior period adjustment self-reported by the Agency is subject to review by the county auditor-controller (CAC). Proposed CAC adjustments were not received in time for inclusion in this letter; therefore, the amount of RPTTF approved in the table below only reflects the Agency's self-reported prior period adjustment.

Except for the items denied in whole or in part or the items that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 15-16B. The Agency's maximum approved RPTTF distribution for the reporting period is \$9,213,258 as summarized in the Approved RPTTF Distribution table below:

<b>Approved RPTTF Distribution</b>	
<b>For the period of January through June 2016</b>	
Total RPTTF requested for non-administrative obligations	9,465,071
Total RPTTF requested for administrative obligations	125,000
<b>Total RPTTF requested for obligations on ROPS 15-16B</b>	<b>\$ 9,590,071</b>
<b>Total RPTTF requested for non-administrative obligations</b>	<b>9,465,071</b>
<u>Denied Items</u>	
Item No. 39	(150,000)
Item No. 45	(157,789)
	(307,789)
<u>Reclassified Item</u>	
Item No. 40	(2,500)
	(2,500)
<b>Total RPTTF authorized for non-administrative obligations</b>	<b>\$ 9,154,782</b>
<b>Total RPTTF requested for administrative obligations</b>	<b>125,000</b>
<u>Reclassified Item</u>	
Item No. 40	2,500
	2,500
<b>Total RPTTF authorized for administrative obligations</b>	<b>\$ 127,500</b>
<b>Total RPTTF authorized for obligations</b>	<b>\$ 9,282,282</b>
ROPS 14-15B prior period adjustment	(69,024)
<b>Total RPTTF approved for distribution</b>	<b>\$ 9,213,258</b>

On the ROPS 15-16B form, the Agency reported cash balances and activity for the period January 1 through December 31, 2015. Finance will perform a review of the Agency's self-reported cash balances on an ongoing basis. Please be prepared to submit financial records and bridging documents to support the cash balances reported upon request. If it is determined the Agency possesses cash balances that are available to pay approved obligations, HSC section 34177 (I) (1) (E) requires these balances be used prior to requesting RPTTF.

Please refer to the ROPS 15-16B schedule used to calculate the total RPTTF approved for distribution:

<http://www.dof.ca.gov/redevelopment/ROPS>

This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2016. This determination only applies to items when 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 ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if it was not denied on this ROPS or a preceding ROPS. The only exception is for items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of Final and Conclusive items 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 available prior to the enactment of the redevelopment dissolution statutes. 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 Agency in the RPTTF.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-3274.

Sincerely,



JUSTYN HOWARD  
Program Budget Manager

cc: Ms. Diane Hadland, Consultant, DHA Consulting  
Ms. Linda Santillano, Property Tax Manager, San Bernardino County