



December 18, 2012

Mr. Richard Warne, City Manager  
Twentynine Palms Successor Agency  
6136 Adobe Road  
Twentynine Palms, CA 92277

Dear Mr. Warne:

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 Twentynine Palms Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 23, 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 16, 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 item being disputed.

Items 1 and 2 – 2011 Tax Allocation Bonds Series A and B totaling \$30.4 million. The principal and interest payments due on those bonds are enforceable obligations. However, the transfer of bond proceeds without an enforceable obligation is unallowable. The Series A and B Bonds were issued to fund Project Phoenix, which is not an approved enforceable obligation. Specifically, it is our understanding that in May 2012 the Agency transferred the bond proceeds and spending authority to the City of Twentynine Palms (City) to allow Project Phoenix to go forward. On April 27, 2012, Finance issued a letter to inform the Agency about our review results of the Agency's ROPS for the periods January through June 2012 and July through December 2012. In our letter, Finance denied Project Phoenix, totaling \$11.6 million bond proceeds because there were no contracts in place prior to June 28, 2011. HSC section 34177.3 (c) prohibits the successor agency from transferring revenues or powers to any other public entity except pursuant to enforceable obligation on an approved ROPS. Any such transfers of authority or revenues are "void". Therefore, the Agency is required to reverse the improper transfer and recover the bond funds from the City.

The Agency contends the items are enforceable obligations because the Bond Proceeds Agreement is an enforceable obligation since Finance did not exercise its right to review the Oversight Board's approval of the agreement, which was lawfully entered into under HSC section 34180 (h). While HSC section 34180 (h) authorizes successor agencies to enter or reenter into agreements, any agreement entered into cannot conflict with the requirements set

forth in HSC 34171 (d), as ABx1 26 did not specifically carve out an exception to the definition of an enforceable obligation nor did HSC section 34180 (h) not withstand HSC section 34171 (d). Therefore, the Oversight Board had no legal basis to approve an action that directly conflicted with and violated the definition of an enforceable obligation. Even if Finance did not object to the specific Oversight Board action authorizing the Agency to enter or reenter into an agreement, the statute as a whole prohibits such an action from being validated if it conflicts with the definition of an enforceable obligation. Additionally, Finance has clearly defined authority under HSC section 34177 and 34179 (h) to review any items on ROPS to determine whether or not successor agencies are responsible for the obligation listed on their ROPS. Even if an Oversight Board approved an action that created an enforceable obligation, Finance has the authority to review the enforceable obligation for compliance with HSC section 34171 (d) or for compliance with any other statutory requirements contained in Chapter 26, statutes of 2012 (AB 1484). At no time can an Oversight Board action eliminate Finance's authority to review an enforceable obligation as part of a ROPS review.

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 on April 19, 2011. Therefore, the items are not enforceable obligations.

Furthermore, as authorized in HSC section 34177.3 (c), the State Controller may audit any transfer of authority or revenues prohibited and may order the prompt return of any money from the receiving party.

In addition, per Finance's ROPS letter dated October 7, 2012, the following item not disputed by the Agency continues to reclassify the following administrative cost:

Item 3 – Agreed Upon Procedures Audit in the amount of 10,000. Although this reclassification increased administrative costs to \$135,000, the administrative cost allowance has not been exceeded.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$786,273 as summarized below:

<b>Approved RPTTF Distribution Amount For the period of January through June 2013</b>	
Total RPTTF funding requested for obligations	\$ 661,273
Less: Six-month total for item reclassified as administrative cost	
Item No. 3	\$ 10,000
Total approved RPTTF for enforceable obligations	\$ 651,273
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	\$ 135,000
<b>Total RPTTF approved:</b>	<b>\$ 786,273</b>

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.

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

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Ron Peck, Finance Director, City of Twentynine Palms  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County  
California State Controller's Office