City of
Santa Monica®

Housing and Economic Development
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May 9, 2012

Mark Hill, Program Budget Manager
Department of Finance
915 L Street, Floor 8
Sacramento, CA 95814

Subject: Santa Monica Redevelopment Successor Agency ROPS

Dear Mr. Hill:

As you may know, my staff has been corresponding with Veronica Green, Analyst with the Department of Finance (DOF), regarding the Santa Monica Redevelopment Successor Agency (Successor Agency) July–December 2012 ROPS. Ms. Green has been very helpful during this analysis and has been carefully following instructions given to her by DOF. She has informed us that you may issue a written disapproval of payments for bonds, loans, and contractual obligations. I apologize for taking the unusual step of corresponding with you directly, though I am hopeful that you will turn your attention to this matter as the ramifications of failing to make these payments could have severe consequences for all parties.

Ms. Green has informed us that DOF will soon issue a letter denying payments of the following enforceable obligations:

1. A $50 million bank loan issued in May 2008, with the next payment due on July 15, 2012 and an outstanding balance of $58.7 million.
2. A $19 million tax allocation bond refinanced in 2002, with the next payment due on January 1, 2013 and an outstanding balance of $11.9 million.
3. A $64 million tax allocation bond refinanced in 2006, with the next payment due on January 1, 2013 and an outstanding balance of $78.8 million.
4. A $41 million tax allocation bond issued on June 7, 2011, with the next payment due on January 1, 2013 and an outstanding balance of $96 million.
5. A $60 million bank loan issued in March 2011, with the next payment due on July 15, 2012 and an outstanding balance of $58.7 million.
6. A $42 million property acquisition note entered into in October 2010, with the next payment due on January 1, 2013 and an outstanding balance of $101 million.

For the first five items, we understand that Ms. Green would recommend denial based on the date of certain contractual obligations entered into by the City of Santa Monica (not the Redevelopment Agency) using transferred proceeds from the bonds and loans. While Santa Monica, DOF, and the State Controller's Office may need to work through the details of these obligations, it is unfathomable that the DOF would recommend default on payments made to bondholders and institutional lenders based on the use of bonds and loans for third-party

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agreements. The use of institutional loan or bond proceeds should have no bearing on the enforceability of the loan agreements or indentures of trust.

DOF has taken many steps to assure the financial community that AB 1X 26 would not result in defaults on bonds and loans. In fact, in a letter to counties, cities and successor agencies dated March 2, 2012, Finance Director Ana Matosantos wrote:

> *We believe that the fiduciary duty a successor agency owes to its undisputed creditors takes precedence over any right to dispute whether other items are enforceable obligations.*

The DOF procedures that Ms. Green has explained to us are in direct contradiction to the assurances given to the financial community. Defaulting on bonds and loans could have severe implications for cities, counties, and the state. Credit ratings in California have already suffered from the recent economic downturn. The impacts of a default on over $300 million of outstanding bond and loan payments in Santa Monica (let alone defaults in other communities caused by DOF's interpretation) could send shock waves through the financial system. Even a letter from DOF denying payments owed to institutional lenders and bond holders could have severe implications.

It is our understanding that Ms. Green believes that the City should somehow undo contracts with third parties for projects that are in construction and use the proceeds to defease the former agency's bonds. Such a proposal is in conflict with Section 34177 (i) of AB 1X 26, which requires that:

> *Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.*

We also understand that Ms. Green believes that the City could somehow break enforceable contracts with third parties and use the proceeds to repay loans. Such a proposal would present significant problems on two fronts. First, virtually all of the proceeds of the Bank of America loan have been disbursed to third parties pursuant to enforceable contracts. Second, failure to disburse contractually committed loan proceeds to third parties would put the City in violation of those contracts and force those third parties to violate agreements with contractors, institutional lenders, tax credit equity investors, and title companies. It would also leave the community pock-marked with partially completed construction projects. Certainly the state does not intend to create new sources of urban blight by littering communities with unfinished construction projects.

Denial of payments on the final item is also unfathomable. The Agency entered into an agreement to purchase the subject property in 2010 and the sellers required that the purchase be made through a stream of payments rather than a lump-sum payment. While the State Controller, DOF and local oversight board may need to work through what ultimately becomes of the property, default on the note would be in direct conflict with AB 1X 26 and the assurances provided by DOF.

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The County of Los Angeles' Chief Executive Office expressly acknowledged that payment of the six items are enforceable obligations and thus recommended approval of the items on the July – December 2012 ROPS. The local oversight board unanimously agreed that the six items are enforceable obligations.

If you are amenable to further discussion of this matter, the best way to contact me is by telephone at 310.458.2251, or by e-mail at andy.agle@smgov.net. I apologize that this request is being made on short notice and will endeavor to be available at your earliest convenience before DOF issues its determination in this matter. If it would be helpful, I would be happy to fly to Sacramento to meet with you in person.

Sincerely,

Andy Agle
Director of Housing and Economic Development

Cc: Michael Barr, DOF Financial and Performance Evaluator
Veronica Green, DOF Analyst

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