

May 17, 2017

Ms. Sarah T. Schlenk, Agency Administrative Manager
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Dear Ms. Schlenk:

Subject: 2017-18 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 10, 2017. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Oakland Successor Agency (Agency) submitted an annual ROPS for the period of July 1, 2017 through June 30, 2018 (ROPS 17-18) to Finance on January 25, 2017. Subsequently, the Agency requested a Meet and Confer on one or more of the determinations made by Finance. The Meet and Confer was held on April 25, 2017.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer, Finance has completed its review of the specific determinations being disputed:

- Item Nos. 7, 8, and 10 – Public Employee's Retirement System, Other Post-Employment Benefits, and Unemployment obligations totaling \$1,983,500 for the ROPS 17-18 period and a total outstanding amount of \$33,031,291. Finance continues to deny these items. Originally, Finance denied these items because the September 1, 1970 and July 30, 2016 agreements are between the City of Oakland (City) and California Public Employee Retirement System (CalPERS); the former Redevelopment Agency (RDA) is not a party to the contract.

During the Meet and Confer, the Agency contended that Item Nos. 7, 8, and 10 are enforceable obligations based on HSC section 34171 (d) (1) (C), which states enforceable obligations include legally enforceable payments in connection with Agency employees such as pension payments and pension obligations. However, absent a contract or agreement, the Agency's responsibility for payment of this obligation is not legally enforceable. Because the agreement provided to Finance is between the City and CalPERS, the Agency's obligation for payment of unfunded pension liabilities is unsupported.

The Agency further contends that pursuant to the July 1, 2004 Cooperation Agreement, the Agency is obligated to reimburse the City for any City employee costs who work full time or part time on RDA activities. However, HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the

former RDA are not enforceable unless entered into within two years of the date of creation of the RDA. The cooperation agreement was not signed within two years of the date of creation of the RDA.

Therefore, these items are not enforceable obligations and the total outstanding amount of \$33,031,291 is not allowed.

- Item No. 54 – Project Management Costs in the amount of \$1,533,808 for the ROPS 17-18 period and a total outstanding amount of \$7,678,079. Finance maintains its previous determination. Finance previously reclassified the requested amount in part by \$273,644 from Redevelopment Property Tax Trust Fund (RPTTF) to Other Funds because the Agency had \$273,644 in unrestricted funds reported on the ROPS 17-18 Cash Balance form. During the Meet and Confer, the Agency stated it should be allowed to retain the funds to alleviate a negative balance within its accounts. However, HSC section 34171 (d) (1) states enforceable obligations and negative balances are not included within the definition. Should the Agency be able to identify an enforceable obligation for which lack of proper funding caused the negative balance, Finance would consider the item on a future ROPS.

Pursuant to HSC section 34171 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. This item is an enforceable obligation for the ROPS 17-18 period. The Agency has \$273,644 available in Other Funds. Therefore, Finance is approving RPTTF in the amount of \$1,260,164 (\$1,533,808 – \$273,644) and the use of Other Funds in the amount of \$273,644, totaling \$1,533,808 for the ROPS 17-18 period.

- Item No. 207 – 9451 MacArthur Boulevard – Evelyn Rose Project in the total outstanding amount of \$517,500. Finance continues to deny this item. During the initial review, the Agency contended that repayment to the Low and Moderate Income Housing Fund (LMIHF) is required because the former RDA expended LMIHF funds on an affordable housing project located at 9451 MacArthur Boulevard, which was never completed. The former RDA ultimately sold the property to another developer in 2002 for development of non-affordable housing. Furthermore, the Agency contended that due to the removal of the affordable housing covenant tied to the property, the Agency is required to pay back the LMIHF funds used. Finance initially denied this item because the funds being borrowed or amounts owed were not the result of a deferral.

During the Meet and Confer, the Agency contended that HSC section 34171 (d) (1) (G) provides that payments owing to the LMIHF are enforceable obligations and are payable to the LMIHF of the housing successor. Additionally the Agency contends that HSC section 33334.16 requires the restoration of funds to the LMIHF when a planned development is not ultimately completed with the appropriate covenants.

Under dissolution law, HSC section 34171 (d) (1) (G) specifically limits repayments to amounts borrowed from, or payments owing to, the LMIHF of the RDA, which had been deferred. The amount the Agency contends is owed was not a result of funds being borrowed or amounts owed as a result of a deferral. As such, this item does not meet the definition of an enforceable obligation pursuant to HSC section 34171 (d) (1) (G) and the requested \$517,500 in RPTTF funding is not allowed.

- Item No. 426 – West Oakland Loan Indebtedness totaling \$1,832,828 requested for ROPS 17-18 and a total outstanding amount of \$2,749,243. Finance continues to deny this item. Finance initially denied this item because the outstanding loan balance at June 27, 2011 was zero. During the Meet and Confer, the Agency restated its opinion that the balance of the loan was \$2,689,534.51. The Agency additionally contends that this item is an enforceable obligation and should be funded with RPTTF since Finance did not initiate OB Resolution No. 2013-016, which found the loan to be for legitimate redevelopment purposes.

It is our understanding the City incurred expenditures in fiscal year 2011-12, which were in accordance with the list of projects in the First Amendment to Funding Agreement dated March 25, 2011 between the City and the former RDA. Additionally, it is our understanding the contracts entered into by the City to complete the projects were after June 27, 2011.

ABx1 26 requires agencies to expeditiously wind down the affairs of the dissolved RDAs and provides successor agencies with limited authority necessary for the wind down of RDA affairs and to perform under enforceable obligations. As of June 27, 2011, RDAs were prohibited from creating any new obligations and engaging in any new redevelopment activities. As of February 1, 2012, the RDA's authority was suspended and the RDA ceased to exist. Any transfers of the RDA's powers to a third party were also impacted by the prohibitions of dissolution law. Since the RDA no longer had the power to take out or make new loans or engage in any other activity to create obligations as of June 27, 2011, these powers could no longer be transferred to a third party. Thus, any specific obligations, whether by the RDA or a third party acting on behalf of the RDA that did not exist as of June 27, 2011, are not enforceable obligations on the successor agency within the meaning of HSC section 34171 (d) (1). As such, the various contracts entered into by the City with third parties after June 27, 2011, are not obligations of the Agency.

Therefore, for the above reasons, the outstanding balance as of June 27, 2011 continues to be zero for the loan approved by OB Resolution No. 2013-016 and the \$1,813,238 requested for ROPS 17-18 is denied.

In addition, per Finance's letter dated April 10, 2017, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

The claimed administrative costs exceed the allowance by \$139,050. HSC section 34171 (b) (3) limits the fiscal year Administrative Cost Allowance (ACA) to three percent of actual Redevelopment Property Tax Trust Fund (RPTTF) distributed in the preceding fiscal year or \$250,000, whichever is greater; not to exceed 50 percent of the RPTTF distributed in the preceding fiscal year. As a result, the Agency's maximum ACA is \$1,929,416 for the fiscal year 2017-18.

Although \$2,068,446 is claimed for ACA, only \$1,929,416 is available pursuant to the cap. Therefore, as noted in the table on Page 4, \$139,050 of excess ACA is not allowed:

Administrative Cost Allowance Calculation	
Actual RPTTF distributed for fiscal year 2017-18	\$ 66,108,332
Less distributed Administrative RPTTF	(1,794,454)
RPTTF distributed for 2017-18 after adjustment	64,313,878
ACA Cap for 2017-18 per HSC section 34171 (b)	1,929,416
ACA requested for 2017-18	2,068,466
ACA in Excess of Cap	\$ (139,050)

Except for the items adjusted, Finance is not objecting to the remaining items listed on the ROPS 17-18.

The Agency's maximum approved RPTTF distribution for the reporting period is \$67,617,360 as summarized in the Approved RPTTF Distribution table on Page 6 (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2017 through December 31, 2017 period (ROPS A period) and one distribution for the January 1, 2018 through June 30, 2018 period (ROPS B period) based on Finance's approved amounts. Since Finance's determination is for the entire ROPS 17-18 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

On the ROPS 17-18 form, the Agency reported cash balances and activity for the period of January 1, 2016 through June 30, 2016. Finance reviews the Agency's self-reported cash balances on an ongoing basis. The Agency should be prepared to submit financial records and bridging documents to support the cash balances reported upon request.

The Agency was not required to report the estimated obligations versus actual payments (prior period adjustment) associated with the July 1, 2015 through June 30, 2016 period (ROPS 15-16). The Agency will report actual payments for ROPS 15-16 on ROPS 18-19, pursuant to HSC section 34186 (a) (1). A prior period adjustment may be applied to the Agency's ROPS 18-19 RPTTF distribution. Therefore, the Agency should retain any unexpended ROPS 15-16 RPTTF.

This is Finance's final determination regarding the obligations listed on the ROPS 17-18. This determination only applies to items when funding was requested for the 12-month period.

The ROPS 17-18 form submitted by the Agency and Finance's determination letter will be posted on Finance's website:

<http://dof.ca.gov/Programs/Redevelopment/ROPS/>

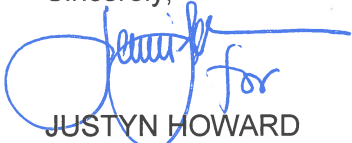
Finance's determination is effective for the ROPS 17-18 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if not denied on this ROPS or a preceding ROPS. The only exception is for items that have 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.

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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 law. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax increment is limited to the amount of funding available to the Agency in the RPTTF.

Please direct inquiries to Wendy Griffe, Supervisor, or Jared Smith, Lead Analyst, at (916) 322-2985.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Mr. Patrick Lane, Development Manager, City of Oakland
Ms. Carol S. Orth, Tax Analysis, Division Chief, Alameda County

Attachment

Approved RPTTF Distribution			
For the period of July 2017 through June 2018			
	ROPS A Period	ROPS B Period	ROPS 17-18 Total
RPTTF Requested	\$ 22,447,600	\$ 47,847,816	\$ 70,295,416
Administrative RPTTF Requested	1,034,233	1,034,233	2,068,466
Total RPTTF Requested	23,481,833	48,882,049	72,363,882
RPTTF Requested	22,447,600	47,847,816	70,295,416
<u>Adjustments</u>			
Item No. 7	(658,942)	(658,942)	(1,317,884)
Item No. 8	(332,808)	(332,808)	(665,616)
Item No. 54	(273,644)	0	(273,644)
Item No. 207	(517,500)	0	(517,500)
Item No. 426	(916,414)	(916,414)	(1,832,828)
	(2,699,308)	(1,908,164)	(4,607,472)
RPTTF Authorized	19,748,292	45,939,652	65,687,944
Administrative RPTTF Requested	1,034,233	1,034,233	2,068,466
Excess Administrative Costs	0	(139,050)	(139,050)
Administrative RPTTF Authorized	1,034,233	895,183	1,929,416
Total RPTTF Approved for Distribution	\$ 20,782,525	\$ 46,834,835	\$ 67,617,360