DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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May 15, 2015

Ms. Marlene Murphey, Executive Director
Fresno City
2344 Tulare Street, Suite 200
Fresno, CA 93721

Dear Ms. Murphey:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 6, 2015. Pursuant to Health and Safety Code (HSC) section 34177 (m), the Fresno City Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16A) to Finance on February 20, 2015, for the period of July through December 2015. Finance issued a ROPS determination letter on April 6, 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 April 13, 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. 6 – Central City, Apple Valley Infrastructure contract in the amount of $308,935. Finance continues to deny this item at this time. Finance initially denied this item because the Memorandum of Understanding (MOU) between the former redevelopment agency (RDA) and Apple Valley Farms, Inc. does not adequately address the project scope and costs. Additionally, contracts provided by the Agency for actual construction activities were awarded after June 27, 2011.

  During the Meet and Confer process, the Agency contended that the MOU clearly describes the scope of work as "appropriate public improvements to increase safety and enhance commercial traffic circulation in the Hedges/Abby commercial area to include curbs, gutters, street lights, paving, and storm drains" and the cost as $385,000. The Agency stated that Phase I of the project has been completed and Phase II is under contract with construction work in process. The Agency provided a Public Work of Improvement Contract executed November 3, 2014, for the Phase II work. HSC section 34177.3 (a) prohibits a successor agency from creating new enforceable obligations or beginning new redevelopment work, except in compliance with an enforceable obligation existing prior to June 28, 2011. While the new contract provided appears to be in furtherance of the MOU, the Agency has not provided an Oversight Board action approving this contract. Additionally, the Agency has already reported a total of $191,650 in expenditures towards the MOU and is requesting an additional $308,935,

which is $115,585 greater than the amount committed in the MOU. Therefore, this item is currently not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

To the extent the Agency can provide an Oversight Board action approving the entry of the Public Work of Improvement Contract in furtherance of the MOU as well as a reconciliation of the costs incurred compared to the amount committed, the Agency may relist this item on a subsequent ROPS for review.

- Item No. 34 – Disposition of Agency Properties in the amount of requested $112,112 was reduced by $72,800 to $39,312. Finance no longer reduces this item. Finance initially reduced this item because insufficient documentation was provided to support the amounts claimed for project management. The disposition of Agency properties is not a project-specific obligation that requires project management. The Agency provided documents to support other costs, including fence rental and legal costs. However, these documents are insufficient to support the requested amount because they do not address the requirement for project management costs.

  During the Meet and Confer process, the Agency contended that the costs denied are associated with direct staff costs for ongoing property disposition activities of the 71 parcels owned by the Agency. The Agency provided the list of duties and tasks to be completed by one staff person and the methodology to estimate the costs totaling $72,800 (26 weeks x 40 hours/week x $70 per hour blended rate). Therefore, this item is an enforceable obligation and is eligible for RPTTF funding.

- Item No. 37 – US Environmental Protection Agency (EPA) Grant in the amount of $45,000. Finance continues to deny this item. It is our understanding the EPA awarded a grant to the Agency on June 6, 2011, and executed the grant agreement on August 31, 2011, with pre-award costs approved back to July 1, 2011. The Agency provided a copy of the EPA grant; however, Finance initially denied this item because this document is insufficient, on its own, to support the requested amount. During the Meet and Confer process, the Agency contended that the grant does not require a match from the Agency and all expenditures are reimbursed by the EPA; the funds requested are to cover the delay between expenditures and ongoing reimbursements by the EPA. However, the budget period and the project period ended on December 31, 2014. Therefore, this agreement has expired by its own terms and is not eligible for funding.

- Items 42, 44, 45, 47, 48, 51 through 53, 55, 56, 58, 67 through 70, 72, 78 through 80, 86 through 88, 91, 92, 100 through 104, and 109 – City loan repayments continue to be denied at this time. Pursuant to HSC section 34191.4 (b), loan agreements between the former redevelopment agency and sponsoring entity may be placed on the ROPS if the following requirements are met: (1) The Agency has received a Finding of Completion; and (2) The Agency's oversight board approves the loan as an enforceable obligation by finding the loan was for legitimate redevelopment purposes.

  Oversight Board (OB) Resolution OB-19 was submitted to Finance to approve 68 loans between the City and the former RDA as enforceable obligations and made a finding that the loans were for legitimate redevelopment purposes. However, 56 loans were denied in our letter dated October 29, 2014. Finance initially denied these loans because the Agency was unable to provide support for these loans including promissory notes, loan amounts, and properly executed loan agreements. The Agency subsequently submitted

OB Resolution OB-22 to approve the remaining 56 loans; however, 38 remain denied in our letter dated April 6, 2015. Finance continues to deny these loans because the Agency was unable to provide support for these loans including promissory notes, loan amounts, and properly executed loan agreements. To the extent the Agency can provide additional documentation to demonstrate the monetary amounts of loans and the required repayments, these items may be eligible for repayments on future ROPS.

During the Meet and Confer process, the Agency requested that Finance ensure that the Agency receive the full amount eligible for repayment in the amount of $3,438,354. Therefore, Finance is increasing Item No. 54 by $1,667,309.

- Item Nos. 49, 57, 84, and 95 – City loans totaling $226,946. Finance approved full funding for these items in our letter dated December 17, 2014, and continues to consider these items retired. The Agency has not provided sufficient documentation to support that funding approved in ROPS 14-15B was inadequate; therefore, Finance continues to consider these items retired.

  During the Meet and Confer process, the Agency disagreed with the Finance's methodology used to recalculate interest on these loans and contended that these items should not be retired. Finance continues to maintain that HSC section 34191.4 requires the recalculation of the accumulated interest at a rate not to exceed the interest rate earned by funds deposited in the Local Agency Investment Fund (LAIF) at the time the Oversight Board finds that the loan was for legitimate redevelopment purposes.

- Item 82 – City loan in the amount of $41,674. Finance originally approved RPTTF in the amount of $951,480 in our letter dated December 17, 2014. Upon recalculation to verify the requested amount, we determined an additional $2,526 is outstanding. Therefore, Finance will reduce the amount requested by $39,148 and $2,526 will be repaid in this ROPS and the item will be considered retired.

  During the Meet and Confer process, the Agency disagreed with the Finance's methodology used to recalculate interest on this loan and contended that this item should not be retired. Finance continues to maintain that HSC section 34191.4 requires the recalculation of the accumulated interest at a rate not to exceed the interest rate earned by funds deposited in the LAIF at the time the Oversight Board finds that the loan was for legitimate redevelopment purposes.

- Item 83 – City loan in the amount of $6,992. Finance originally approved RPTTF in the amount of $158,250 in our letter dated December 17, 2014. Upon recalculation to verify the requested amount, we determined an additional $391 is outstanding. Therefore, Finance will reduce the amount requested by $6,601 and $391 will be repaid in this ROPS and the item will be considered retired.

  During the Meet and Confer process, the Agency disagreed with the Finance's methodology used to recalculate interest on this loan and contended that this item should not be retired. Finance continues to maintain that HSC section 34191.4 requires the recalculation of the accumulated interest at a rate not to exceed the interest rate earned by funds deposited in the LAIF at the time the Oversight Board finds that the loan was for legitimate redevelopment purposes.

- Item 85 – City loan in the amount of $27,111. Finance originally approved RPTTF in the amount of $789,600 in our letter dated December 17, 2014. Upon recalculation to verify the requested amount, we determined an additional $1,804 is outstanding. Therefore, Finance will reduce the amount requested by $25,307 and $1,804 will be repaid in this ROPS and the item will be considered retired.

  During the Meet and Confer process, the Agency disagreed with the Finance's methodology used to recalculate interest on this loan and contended that this item should not be retired. Finance continues to maintain that HSC section 34191.4 requires the recalculation of the accumulated interest at a rate not to exceed the interest rate earned by funds deposited in the LAIF at the time the Oversight Board finds that the loan was for legitimate redevelopment purposes.

- Items 110 through 114 – Various Property Disposition costs, including relocation and remediation costs, totaling $173,530, are not allowed. Finance continues to deny these items. Finance initially denied these items because HSC section 34177.3 (a) states that agencies shall lack the authority to, and shall not, create new enforceable obligations or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011. HSC section 34171 (d) (1) (F) allows agencies to maintain assets prior to disposition; however, remediation and relocation costs are beyond the ordinary maintenance work necessary to maintain the property prior to disposition and such costs are not pursuant to an existing enforceable obligation.

  Item Nos. 110 through 113 are related to various property disposition costs; however, since the Agency's Long-Range Property Management Plan (LRPMP) has not been approved, Finance cannot determine if these proposed costs will be necessary or if they are reasonable.

  Item No. 114 is related to tenant relocation costs and hazardous material survey, abatement, and management costs; however, the Agency did not provide any documents indicating these costs are required pursuant to an enforceable obligation existing prior to June 28, 2011. The Agency provided an unexecuted copy of a Relocation Claim Form with a notice to terminate tenancy by November 2, 2010; however, the tenancy has not been terminated and a relocation claim was not filed within the timeframe provided in the notice. Additionally, relocation assistance, if triggered, is a duty of the entity acquiring the property and the Agency would be transferring or selling the property upon the approval of the LRPMP, not acquiring it.

  Therefore, these items are not eligible for RPTTF funding on this ROPS.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 15-16A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2014 period. HSC section 34186 (a) also specifies prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. 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 prior period adjustment self-reported by the Agency.

Except for the items denied in whole or in part, Finance is not objecting to the remaining items listed on your ROPS 15-16A. The Agency's maximum approved RPTTF distribution for the reporting period is $4,009,629 as summarized in the Approved RPTTF Distribution table below:

| Approved RPTTF Distribution<br>For the period of July through December 2015 | | |
|---|---|---|
| Total RPTTF requested for non-administrative obligations | | 7,575,640 |
| Total RPTTF requested for administrative obligations | | 250,000 |
| **Total RPTTF requested for obligations on ROPS** | **$** | **7,825,640** |
| RPTTF adjustment to non-administrative obligations | | 1,667,309 |
| **Total RPTTF adjustments** | **$** | **1,667,309** |
| **Total RPTTF requested for non-administrative obligations** | | **9,242,949** |
| Denied Item | | |
| Item No. 6 | | (308,935) |
| Item No. 37 | | (45,000) |
| Item Nos. 42, 44, 45, 47, 48, 51 through 53, 55, 56, 58, 67 through 70, 72, 78 through 80, 86 through 88, 91, 92, 100 through 104, and 109 | | (1,588,889) |
| Item Nos. 49, 57, 84, and 95 | | (7,364) |
| Item No. 82 | | (39,148) |
| Item No. 83 | | (6,601) |
| Item No. 85 | | (25,307) |
| Item Nos. 110-114 | | (173,530) |
| | | (2,194,774) |
| **Total RPTTF authorized for non-administrative obligations** | **$** | **7,048,175** |
| **Total RPTTF requested for administrative obligations** | | **250,000** |
| **Total RPTTF authorized for administrative obligations** | **$** | **250,000** |
| **Total RPTTF authorized for obligations** | **$** | **7,298,175** |
| ROPS 14-15A prior period adjustment | | (3,288,546) |
| **Total RPTTF approved for distribution** | **$** | **4,009,629** |

Please refer to the ROPS 15-16A 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, 2015. 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 the 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 agency in the RPTTF.

Pursuant to HSC section 34177 (a) (3), only those payments listed on an approved ROPS may be made by the successor agency from the funds specified in the ROPS. However, if the Agency needs to make payments for approved obligations from another funding source, HSC section 34177 (a) (4) requires the Agency to first obtain oversight board approval.

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), 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) 445-3274.

Sincerely,

JUSTYN HOWARD
Program Budget Manager

cc: Ms. Debra Barletta, Director of Finance, Fresno City
Mr. George Gomez, Accounting Financial Manager, Fresno County
California State Controller's Office