



March 31, 2015

Ms. Ramona Castaneda, Fiscal Services Manager
City of Fullerton
303 West Commonwealth Avenue
Fullerton, CA 92832

Dear Ms. Castaneda:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Fullerton Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16A) to the California Department of Finance (Finance) on February 20, 2015 for the period of July 1 through December 31, 2015. Finance has completed its review of your ROPS 15-16A, which may have included obtaining clarification for various items.

Based on a sample of line items reviewed and application of the law, Finance made the following determinations:

- Item No. 16 – Project T Grant Match in the amount of \$98,000 is not allowed. Finance continues to deny this item. These contracts are between the City of Fullerton (City) and various third-parties. The former redevelopment agency (RDA) is neither a party to the contract nor responsible for payment of the contract. Therefore, this item is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item No. 18 – Downtown Core & Corridors Specific Plan in the amount of \$1,321,860 is not allowed. Finance continues to deny this item. The contract is between the City and a third-party, the Agency is not a party to the contract. The Agency stated the RDA committed funds for the City's project per the City and RDA Cooperation Agreement dated January 25, 2011. However, HSC 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA creation date or for issuance of indebtedness to third-party investors or bondholders. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item Nos. 19 and 20 – City and Agency Cooperation Agreements (Agreements) dated January 29, 2011 and June 7, 2011, totaling \$15,500,000 (\$14,000,000 and \$1,500,000, respectively) are not allowed. Finance continues to deny these items. The Agency contends the Agreements committed the RDA to fund the related capital improvement projects. However, HSC 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not

enforceable, unless issued within two years of the RDA creation date or for issuance of indebtedness to third-party investors or bondholders. Therefore, these line items are not enforceable obligations and are not eligible for RPTTF funding

- Item Nos. 23 and 28 – Affordable Housing Monitoring, Administration, and Reporting contracts totaling \$10,540,000 (\$10,020,000 and \$520,000, respectively) are not allowed. Finance continues to deny these items. Finance denied these items as the City Housing Division assumed the housing functions. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations, and housing assets...shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of administrative obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in AB x1 26/AB 1484. Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding.
- Item No. 30 – Capital Improvement Projects in the amount of \$95,000 is not allowed. Finance continues to deny this item. Finance originally denied this item because the contract is between the City and Griffin Structures; the RDA is not a party to the contract. The Agency stated the City and RDA signed a cooperation agreement on January 29, 2011 committing RDA funding to the City agreement with Griffin Structures, Inc. However, HSC 34171(d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA creation date or for issuance of indebtedness to third-party investors or bondholders. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 46 – The Alexander (Affordable Housing Development). No funding request is made on this item; however, with Agency's consent, this item will be retired since it is listed twice on the ROPS. Therefore, this item is now retired.
- Item No. 56 – Property Maintenance in the amount of \$28,500. Based on our review of the documentation provided, the Agency will need \$32,107 during this ROPS period. Therefore, with the Agency's consent, Finance increased the funding for this item by \$3,607 (\$32,107 - \$28,500).
- Item No. 57 – 2005 Non-Housing Bond Proceeds Bond Expenditure Agreement. Finance issued a Finding of Completion on May 10, 2013 and the Agency can now utilize proceeds derived from bonds issued prior to January 1, 2011 in a manner consistent with the original bond covenants. Although this item is an enforceable obligation, the requested amount is reduced from \$8,500,000 to \$5,100,000 to avoid duplication with the amount requested on Item No. 59, relating to various street improvements. Additionally, it is our understanding the Agency plans to expend the remainder, \$5,100,000, during ROPS 15-16B. Therefore, this item is not eligible for Bond Proceeds funding on this ROPS.

During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should be used prior to requesting RPTTF. Pursuant to

HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. The Agency provided financial records that displayed available Other Funds totaling \$60,433.

Therefore, with the Agency's consent, the funding source for the following item has been reclassified to Other Funds and in the amount specified below:

- Item No. 11 – Lease: Ron Miller in the amount of \$75,385. The Agency requests \$75,385 from RPTTF; however, Finance is reclassifying \$60,433 to Other Funds. This item is an enforceable obligation for the ROPS 15-16A period. However, the obligation does not require payment from property tax revenues and the Agency has \$60,433 in available Other Funds. Therefore, Finance is approving RPTTF in the amount of \$9,952 and the use of Other Funds in the amount of \$60,433, totaling \$75,385.

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. The amount of RPTTF approved in the table below includes the prior period adjustment resulting from the CAC's review of the Agency's self-reported prior period adjustment.

Except for the items denied in whole or in part or item that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 15-16A. If you disagree with the determination with respect to any items on your ROPS 15-16A, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's maximum approved RPTTF distribution for the reporting period is \$7,672,383 as summarized in the Approved RPTTF Distribution table below:

Approved RPTTF Distribution	
For the period of July through December 2015	
Total RPTTF requested for non-administrative obligations	9,679,122
Total RPTTF requested for administrative obligations	225,000
Total RPTTF requested for obligations on ROPS	\$ 9,904,122
Agency requested RPTTF adjustment to non-administrative obligation Item No. 56	3,607
Total RPTTF adjustment	\$ 3,607
Total RPTTF requested for non-administrative obligations	9,682,729
<u>Denied Items</u>	
Item No. 16	(45,000)
Item No. 18	(330,465)
Item No. 19	(1,000,000)
Item No. 20	(500,000)
Item No. 23	(60,000)
Item No. 28	(65,000)
Item No. 30	(47,500)
	(2,047,965)
	\$ 7,634,764
<u>Cash Balances - Item reclassified to Other Funds</u>	
Item No. 11	(60,433)
Total RPTTF authorized for non-administrative obligations	\$ 7,574,331
Total RPTTF requested for administrative obligations	225,000
Total RPTTF authorized for administrative obligations	\$ 225,000
Total RPTTF authorized for obligations	\$ 7,799,331
ROPS 14-15A prior period adjustment	(126,948)
Total RPTTF approved for distribution	\$ 7,672,383

Please refer to the ROPS 15-16A schedule that was used to calculate the approved RPTTF amount:

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

Absent a Meet and Confer, 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 Nichelle Thomas, Supervisor or Medy Lamorena, Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Mr. Charles Kovac, Project Manager, City of Fullerton
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office