



November 18, 2015

Ms. Ramona Castaneda, Revenue 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) (1) (A), the City of Fullerton Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule for the period January 1 through June 30, 2016 (ROPS 15-16B) to the California Department of Finance (Finance) on October 5, 2015. Finance has completed its review of the ROPS 15-16B.

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 \$45,000 requested for ROPS 15-16B and total outstanding obligation 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. 17 – College Town Specific Plan in the amount of \$10,000 is not allowed. The Agency was not able to provide sufficient documentation to support the amount claimed. The Agency provided a Memorandum of Understanding between the Agency and the City. However, this document is insufficient to support the requested amount because it has expired, and the Agency did not provide documentation to show an obligation still pending. To the extent the Agency can provide suitable documentation to support the requested funding the Agency may be able to obtain RPTTF on a future ROPS.
- Item No. 18 – Downtown Core & Corridors Specific Plan in the amount of \$330,465 requested for ROPS 15-16B and total outstanding obligation 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 contends 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, in the amount of \$1,500,000 requested for ROPS 15-16B and total outstanding obligation in the amount of \$15,500,000 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 in the amounts of \$125,000 requested for ROPS 15-16B and total outstanding obligation in the amount of \$10,415,000 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 ongoing 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 \$47,500 requested for ROPS 15-16B and total obligation 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 contends 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. 31– Litigation Costs in the amount of \$60,000 have been reclassified to the Administrative Cost Allowance (ACA), and therefore, claimed administrative costs exceed the allowance by \$59,188. Pursuant to HSC section 34171 (d) (1) (F) (i), legal expenses related to civil actions, including writ proceeding, contesting the validity of the dissolution law, or challenging acts taken pursuant to the dissolution law shall only be payable out of the ACA.

Additionally, HSC section 34171 (b) (2) limits fiscal year 2015-16 administrative expenses to three percent of the RPTTF funds allocated to the Redevelopment

Obligation Retirement Fund for the fiscal year or \$250,000. The Orange County Auditor-Controller (CAC) distributed \$225,000 for the July through December 2015 period, leaving a balance of \$180,812 available for the January through June 2016 period. Although \$180,000 is claimed for the ACA, Item No. 31 – Litigation Costs in the amount of \$60,000 – are considered a general administrative cost and should be counted toward the ACA. Therefore, \$59,188 of excess ACA is not allowed.

Pursuant to HSC section 34186 (a) (1), the Agency was required to report on the ROPS 15-16B form the estimated obligations versus actual payments (prior period adjustment) associated with the January through June 2015 period (ROPS 14-15B). HSC section 34186 (a) (1) also specifies the prior period adjustment self-reported by the Agency is subject to review by the CAC. 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 the items that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 15-16B. If you disagree with Finance's determination with respect to any items on your ROPS 15-16B, except for those items which are the subject of litigation disputing Finance's previous or related determinations, 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 \$5,949,325 as summarized in the Approved RPTTF Distribution table below:

| Approved RPTTF Distribution | |
|--|---------------------|
| For the period of January through June 2016 | |
| Total RPTTF requested for non-administrative obligations | 8,010,280 |
| Total RPTTF requested for administrative obligations | 180,000 |
| Total RPTTF requested for obligations on ROPS 15-16B | \$ 8,190,280 |
| Total RPTTF requested for non-administrative obligations | 8,010,280 |
| <u>Denied Items</u> | |
| Item No. 16 | (45,000) |
| Item No. 17 | (10,000) |
| 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) |
| | (2,057,965) |
| <u>Reclassified Item</u> | |
| Item No. 31 | (60,000) |
| Total RPTTF authorized for non-administrative obligations | \$ 5,892,315 |
| Total RPTTF requested for administrative obligations | 180,000 |
| <u>Reclassified Item</u> | |
| Item No. 31 | 60,000 |
| Administrative costs in excess of the cap (see Admin Cost Cap table below) | (59,188) |
| Total RPTTF authorized for administrative obligations | \$ 180,812 |
| Total RPTTF authorized for obligations | \$ 6,073,127 |
| ROPS 14-15B prior period adjustment | (123,802) |
| Total RPTTF approved for distribution | \$ 5,949,325 |

| Administrative Cost Cap Calculation | |
|---|--------------------|
| Total RPTTF for 15-16A (July through December 2015) | 7,634,764 |
| Total RPTTF for 15-16B (January through June 2016) | 5,892,315 |
| Less approved unfunded obligations from prior periods | 0 |
| Total RPTTF for fiscal year 2015-2016 | 13,527,079 |
| Administrative cost cap for fiscal year 2015-16 (Greater of 3% of Total RPTTF or \$250,000) | 405,812 |
| Administrative allowance for ROPS 15-16A (July through December 2015) | (225,000) |
| Remaining administrative cost cap for ROPS 15-16B | 180,812 |
| ROPS 15-16B administrative obligations after Finance adjustments | (240,000) |
| Administrative costs in excess of the cap | \$ (59,188) |

On the ROPS 15-16B form, the Agency reported cash balances and activity for the period January 1 through December 31, 2015. Finance will perform a review of the Agency's self-reported cash balances on an ongoing basis. Please be prepared to submit financial records and bridging documents to support the cash balances reported upon request. If it is determined the Agency possesses cash balances that are available to pay approved obligations, HSC section 34177 (I) (1) (E) requires these balances be used prior to requesting RPTTF.

Please refer to the ROPS 15-16B schedule used to calculate the total RPTTF approved for distribution:

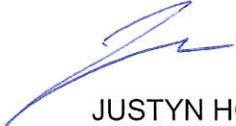
<http://www.dof.ca.gov/redevelopment/ROPS>

Absent a Meet and Confer, this is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2016. This determination only applies to items when 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 ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if it was 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.

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 statutes. 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.

Please direct inquiries to Nichelle Thomas, Supervisor, or Alexander Watt, Lead 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