



April 1, 2016

Ms. Melanie Beretti, RMA Services Manager
Monterey County
168 West Alisal Street, 2nd Floor
Salinas, CA 93901

Dear Ms. Beretti:

Subject: 2016-17 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the Monterey County Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule for the period July 1, 2016 through June 30, 2017 (ROPS 16-17) to the California Department of Finance (Finance) on January 29, 2016. Finance has completed its review of the ROPS 16-17.

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

- Item No. 6 – Japanese Schoolhouse assessment fees in the total outstanding amount of \$1,200 are not allowed. The property was listed in the Agency's Long-Range Property Management Plan (LRPMP) to be transferred to the County of Monterey (County) as a governmental use asset. Finance approved the Agency's LRPMP on December 31, 2015; therefore, the property should be transferred to the County in accordance with the approved LRPMP. Any costs associated with the property are no longer obligations of the Agency. As such, this item is not an enforceable obligation and the requested amount of \$100 for the July 1, 2016 through December 31, 2016 (ROPS A period) is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item No. 8 – Disposition and Development Agreement (DDA) and the First Implementation Agreement to the DDA for the East Garrison Project in the total outstanding amount of \$11,224,351. The Agency requested \$2,074,247 for the ROPS 16-17 period; however, Finance continues to deny this obligation.

While DDA is a valid agreement, the default by the original developer did not automatically terminate the agreement with the former redevelopment agency (RDA). Instead, the default resulted in a period for the developer or lender to cure the default. Under the DDA the default by the original developer on both the loan and obligations owed under the DDA allowed the lender and now the new developer to take over the rights and obligations of the original developer through written agreement between the new developer and the RDA. As a result, the RDA cannot unreasonably withhold its consent to assign the DDA to the new developer.

The June 28, 2011 agreement attempted to assign the DDA to the new developer and amend certain provisions of the DDA, however, HSC section 34163 (c) prohibited the RDA from amending or modifying existing agreements with any entity after June 27, 2011. As a result, the RDA did not have the authority to take this action and the June 28, 2011 agreement was invalid as the amendment and assignment were improper. However, because the DDA has not been terminated the Agency still has the obligation to not unreasonably withhold its consent to the assignment of the DDA to the new developer. As a result, although the DDA has not been properly assigned yet, it can be now. However, any amendments to the 2005 DDA would have to meet the requirements of HSC section 34181 (e) to increase net revenue and decrease liabilities. As such, this item is not an enforceable obligation at this time and the requested amount of \$2,074,247 for the ROPS 16-17 period is not eligible for RPTTF funding.

- Item No. 10 – Project administration for the DDA and the First Implementation Agreement to the DDA for the East Garrison Project totaling \$6,768,164. Finance continues to deny this obligation. The Agency is claiming administrative costs for the DDA in the amount of \$300,000 for the ROPS 16-17 period under Section 205 (1) of the DDA and DDA Attachment 4. However, these sections do not require the Agency to expend \$300,000 annually for specific project costs. In fact, the administrative costs referred to in these sections refer to costs of administering the Redevelopment Project Area as a whole. Thus, under this section the Agency is only entitled to actual annual costs associated with administering the Redevelopment Project Area. Under Dissolution Law, this cost is capped under the Administrative Cost Allowance. Therefore, this item is not an enforceable obligation and the requested amount of \$300,000 for the ROPS 16-17 period is not eligible for RPTTF funding.
- Item No. 13 – Fort Ord Reuse Authority Pass-through payments in the total outstanding amount of \$90,000 are not allowed. The Fort Ord properties were listed in the Agency's LRPMP to be transferred to the County as governmental use assets. Finance approved the Agency's LRPMP on December 31, 2015; therefore, these properties should be transferred to the County in accordance with the approved LRPMP. Any costs associated with these properties are no longer obligations of the Agency. As such, this item is not an enforceable obligation and the requested amount of \$90,000 for the ROPS 16-17 period is not eligible to be paid from Other Funds.
- The claimed administrative costs exceed the allowance by \$250,000. HSC section 34171 (b) (3) limits the fiscal year 2016-17 Administrative Cost Allowance (ACA) to three percent of actual distributed RPTTF in the preceding fiscal year or \$250,000, whichever is greater; not to exceed 50 percent of the distributed RPTTF in the preceding fiscal year. As a result, the Agency's maximum ACA is zero for the fiscal year 2016-17. Although \$250,000 is claimed for administrative cost, only zero is available pursuant to the cap. Therefore, \$250,000 of excess administrative cost is not allowed.

Except for the items denied in whole or in part, Finance is not objecting to the remaining items listed on your ROPS 16-17. If you disagree with Finance's determination with respect to any items on your ROPS 16-17, 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/

On the ROPS 16-17 form, the Agency reported cash balances and activity for the period of July 1, 2015 through June 30, 2016. Finance performs a review of the Agency's self-reported cash balances on an ongoing basis. 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 enforceable obligations, HSC section 34177 (l) (1) (E) requires these balances to be used prior to requesting RPTTF.

The Agency's maximum approved RPTTF distribution for the reporting period is \$1,000 as summarized in the Approved RPTTF Distribution Table on Page 5 (See Attachment).

ROPS distributions will occur twice annually, one distribution for the ROPS A period, and one distribution for the January 1, 2017 through June 30, 2017 (ROPS B period) based on Finance's approved amounts. Since Finance's determination is for the entire ROPS 16-17 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 16-17 form, the Agency was not required to report the estimated obligations versus actual payments (prior period adjustment) associated with the July 1, 2015 through December 31, 2015 period (ROPS 15-16A). The Agency will report actual payments for ROPS 15-16A and ROPS 15-16B on the ROPS 18-19 form pursuant to HSC section 34186 (a) (1). A prior period adjustment will be applied to the Agency's future RPTTF distribution. Therefore, the Agency should retain any difference in unexpended RPTTF.

Please refer to the ROPS 16-17 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 determination related to the enforceable obligations reported on your ROPS for the period July 1, 2016 through June 30, 2017. This determination only applies to items when funding was requested for the 12-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.

Ms. Melanie Beretti
April 1, 2016
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Please direct inquiries to Kylie Oltmann, Supervisor, or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in blue ink, appearing to read "Justyn Howard", with a large circular flourish on the left side and a horizontal line extending to the right.

JUSTYN HOWARD
Program Budget Manager

cc: Ms. Shawne Ellerbee, Finance Manager III, Monterey County
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County

Attachment

Approved RPTTF Distribution			
For the period of July 2016 through June 2017			
	<u>ROPS A Period</u>	<u>ROPS B Period</u>	<u>Total</u>
Requested RPTTF (excluding administrative obligations)	\$ 948,374	\$ 1,426,973	\$ 2,375,347
Requested Administrative RPTTF	125,000	125,000	250,000
Total RPTTF requested for obligations on ROPS 16-17	1,073,374	1,551,973	\$ 2,625,347
Total RPTTF Requested	948,374	1,426,973	2,375,347
<u>Denied Items</u>			
Item No. 6	(100)	0	(100)
Item No. 8	(797,274)	(1,276,973)	(2,074,247)
Item No. 10	(150,000)	(150,000)	(300,000)
	<u>(947,374)</u>	<u>(1,426,973)</u>	<u>(2,374,347)</u>
Total RPTTF authorized	1,000	0	\$ 1,000
Total Administrative RPTTF requested	125,000	125,000	250,000
Administrative costs in excess of the cap (see Administrative Cost Allowance Cap table below)	(125,000)	(125,000)	(250,000)
Total Administrative RPTTF authorized	0	0	\$ 0
Total RPTTF approved for distribution	1,000	0	\$ 1,000

Administrative Cost Allowance Cap Calculation	
Actual RPTTF distributed for fiscal year 2015-16	\$ 0
Less sponsoring entity loan and Administrative RPTTF	0
Actual RPTTF distributed for 2015-16 after adjustment	0
Administrative Cap for 2016-17 per HSC section 34171 (b)	0
ROPS 16-17 Administrative RPTTF after Finance adjustments	250,000
Administrative Cost Allowance in excess of the cap	\$ (250,000)