



REVISED

May 27, 2016

Mr. Steven Dobrenen, Finance Director
City of Cudahy
5220 Santa Ana Street
Cudahy, CA 90201

Dear Mr. Dobrenen:

Subject: 2016-17 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 11, 2016. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Cudahy Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule for the period of July 1, 2016 through June 30, 2017 (ROPS 16-17) to Finance on February 1, 2016. Finance issued a ROPS determination letter on April 11, 2016. 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 May 2, 2016.

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 Nos. 40 and 41– Property management and maintenance costs in the total amount of \$30,000. Finance partially approves these items. During the meet and confer, the Agency contested that they are responsible for maintaining the property until are transferred to the City of Cudahy (City), which they anticipate will occur by December 31, 2016, upon execution of the compensation agreements. Finance approved the Agency Long-Range Property Management Plan (LRPMP) on December 16, 2015, approving six properties for transfer to the City for future development. The LRPMP notes that the Agency will retain the properties until the City executes compensation agreements with the affected taxing entities. Finance approves Redevelopment Property Tax Trust Fund (RPTTF) funding for these two ROPS items for the period of July 1, 2016 through December 31, 2016 (ROPS 16-17A) in the total amount of \$15,000, and denies funding for the period of January 1, 2017 through June 30, 2017 (ROPS 16-17B). The properties need to be transferred to the City immediately after the compensation agreements have been executed, and funding will not be necessary in the ROPS 16-17B period as any management and maintenance costs after December 31, 2016 will be the City's responsibility.

Subsequent review of this request indicates that the Agency requested funding for properties purchased with bond funds that, per the California State Controller's (SCO) Asset Transfer Review Report (Report), were inappropriately transferred to the Cudahy

Economic Development Commission (EDC) in April 2011. More specifically, the SCO issued the Report dated April 15, 2014 finding that the former redevelopment agency transferred property, bond proceeds, and cash in April 2011 totaling approximately \$21 million to the EDC. Based on HSC section 34167.5, the SCO ordered the reversal of the transfer of the assets and ordered the EDC to return the assets to the Agency. The Agency responded to the SCO Report indicating that upon the transfer of the assets, the EDC entered into various agreements to sell and/or develop the property and that the EDC spent the bond proceeds. However, this response did not compel the SCO to change the order that the transfers be reversed.

We note that the Agency had no authority to incur or create liabilities as a result of the Agency's inappropriate transfer of assets to the EDC or as a result of actions taken by the EDC related to the transfer. As a result these items do not constitute enforceable obligations of the Agency under HSC section 34171 (d). Therefore, the approval of this item does not include costs associated with the properties that were purchased with the inappropriately transferred bond proceeds.

- Item No. 42 – Property maintenance costs totaling \$100,000. Finance continues to deny this item. The Agency contends this amount is needed for the repair of a roof on Agency owned property located at 7630 Atlantic Ave. Finance previously denied this item because this property was not identified in the Agency's LRPMP as property owned by the Agency. Additional review indicates that this property was included on the LRPMP. However, based on documentation provided by the Agency during the Meet and Confer, the property located at 7630 S. Atlantic Ave. was purchased with 2003 bond proceeds that were subject of the SCO Report. As stated above, the Agency had no authority to incur or create liabilities as a result of the Agency's inappropriate transfer of assets to the EDC or as a result of actions taken by the EDC related to the transfer. As a result these items do not constitute enforceable obligations of the Agency under HSC section 34171 (d). Therefore, these costs are not eligible for RPTTF funding.
- Item No. 43 – Legal counsel totaling \$72,000. Finance continues to deny this item. The Agency contends this amount is related to legal advice for property maintenance. In addition, the Agency contends that while the agreement for legal services is general in nature, the invoices provided during the Meet and Confer demonstrate that some of the services provided are specific to property maintenance. However, the two properties indicated on the invoices are 4610 Santa Ana St. and 8135 Atlantic Blvd. Based on information provided by the Agency during the Meet and Confer, both of these properties were purchased with the bond proceeds inappropriately transferred to the EDC as explained above. Therefore, the Agency had no authority to incur or create liabilities as a result of the Agency's inappropriate transfer of assets to the EDC or as a result of actions taken by the EDC related to the transfer. As a result these items do not constitute enforceable obligations of the Agency under HSC section 34171 (d) and are not eligible for RPTTF funding.
- Item No. 44 – Settlement of litigation in the amount of \$127,000. Finance continues to deny this item as an enforceable obligation. We note that this item appears to be related to ongoing litigation between the Agency and Finance. Pursuant to HSC section 34177 (o) (1), a successor agency may request additional review and an opportunity to meet and confer on disputed items, except for those items which are the subject of litigation disputing Finance's previous or related determination. However, at

the time the Meet and Confer was scheduled, it was unclear that this item was related to said ongoing litigation and Finance met with the Agency to discuss this item.

The Agency contends that this item is not related to the ongoing litigation. Rather, during the Meet and Confer, the Agency contested that these costs are associated with the Settlement Agreement necessary to wind down the former Redevelopment Agency. However, this item is a settlement and release agreement for the property located at 4610 Santa Ana St., which was purchased with bond proceeds that were subject of the improper transfer identified in the SCO Report. As previously discussed in the items above, the Agency had no authority to incur or create liabilities as a result of the Agency's inappropriate transfer of assets to the EDC or as a result of actions taken by the EDC related to the transfer. As a result, these items do not constitute enforceable obligations of the Agency under HSC section 34171 (d) and are not eligible for RPTTF funding.

Finally, we note that Finance objected to the Settlement Agreement with its determination of Oversight Board Resolution No. 16-05 on March 9, 2016. As a result, any action taken under the resolution is not effective. Therefore, the \$127,000 requested is not eligible for RPTTF funding.

- Item No. 45 – Insurance Costs totaling \$27,900. Finance continues to deny a portion of this item in the amount of \$16,300 and approves \$11,600. We note this item was excluded from our May 17, 2016 Meet and Confer letter. However, the amount was included as a denied item in the Attachment. Subsequently, it has come to our attention that while it appeared that this item pertained to 7630 Atlantic Ave. Subsequent review indicates that this item pertains to all property owned by the Agency. Such property includes property owned by the Agency, property that was returned to the Agency pursuant to the SCO Report, and property that was purchased with bond proceeds that per the SCO Report were inappropriately transferred to the EDC as indicated in the items above. We also note that despite Finance's denial of Oversight Board Resolution 15-07, the Agency accepted the return of the properties inappropriately transferred to the EDC. Regardless, the return of the property is in line with the SCO Report. Therefore, the Agency is eligible to receive the cost of property insurance for the properties the Agency rightfully owns totaling \$5,800 for fiscal year 2016-17. The properties transferred that were purchased with the inappropriately transferred bond proceeds are not eligible for RPTTF for insurance costs.

In addition, we note that the Agency incurred property insurance costs during fiscal year 2015-16 that were not requested on previous ROPS and therefore were not funded. As noted above, the Agency accepted the return of the properties inappropriately transferred to the EDC. Based on the documentation provided by the Agency, the properties were returned to the Agency on or about May 2015. Therefore, the Agency is eligible to receive the cost of property insurance for those properties for the full fiscal year 2015-16 or an additional \$5,800.

Finally, as previously stated, the Agency had no authority to incur or create liabilities as a result of the Agency's inappropriate transfer of assets to the EDC or as a result of actions taken by the EDC related to the transfer. As a result, these items do not constitute enforceable obligations of the Agency under HSC section 34171 (d). The remaining request of \$16,300 (\$27,900 - \$5,800 - \$5,800) is associated with the

properties the EDC purchased with the inappropriately transferred bond proceeds and are not eligible for RPTTF.

- Item No. 46 – Housing administrative cost allowance in the amount of \$150,000. Finance continues to deny this item. Finance denied this item because pursuant to HSC section 34171 (p), the housing entity administrative cost allowance is applicable only in cases where the city, county, or city and county that authorized the creation of the redevelopment agency (RDA) elected to not assume the housing functions. Because the housing entity to the former RDA of the City of Cudahy is the City-formed Housing Authority (Authority), and the Authority operates under the control of the City, the Authority is considered the City under Dissolution Law (ABx1 26 and AB 1484).

The Agency contends that the City elected not to retain the housing functions, but the Authority, as a separate legal entity from the City, did retain the housing functions pursuant to HSC section 34176 (b) and should therefore be eligible for the housing entity administrative allowance. However, pursuant to HSC section 34167.10 (a), the definition of city includes, but is not limited to, any reporting entity of the city for purposes of its comprehensive annual financial report (CAFR), any component unit of the city, or any entity controlled by the city or for which the city is financially responsible or accountable. HSC section 34167.10 (a) defines city for purposes of all of Dissolution Law, which includes HSC section 34171, as amended by AB 471, and HSC section 34176. The Authority is controlled by the City because the City was involved in the formation of the Authority which is a factor to be considered when determining if an entity is controlled by the city pursuant to HSC section 34167.10 (b).

Although the Authority is a separate legal entity from the City, HSC section 34167.10 (c) states that it shall not be relevant that the entity is formed as a separate legal entity. It should also be noted that HSC section 34167.10 (c) goes on to state that “the provisions of this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part [Part 1.8] and Part 1.85...and any attempt to determine otherwise would thwart the intent of these two parts.” Therefore, based on our review, the City, by way of the Authority, elected to retain the housing functions pursuant to HSC section 34176 (a) and is not eligible for \$150,000 of housing entity administrative allowance.

- Item No. 48 – Emergency Loan totaling \$27,900. Finance continues to deny the item as an enforceable obligation. The Agency contends the emergency loan was necessary to pay for property insurance. However, Finance denied Oversight Board Resolution No. 16-06 on March 9, 2016. As a result, any action taken under the resolution is not effective. Therefore, this City loan is not eligible for RPTTF.

In addition, per Finance’s letter dated April 11, 2016, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item No. 5 – The Agency requested the incorrect amount for Tax Allocation Bonds, Series 2011A for the January 1, 2017 through June 30, 2017 (ROPS B period). Per discussion with Agency staff and review of the documentation provided, the \$83,228 requested for the ROPS B period should be \$150,578. As a result, RPTTF funding is increased by \$67,350.

- Item No. 47 – Administrative Reimbursement RPTTF Shortfall in the amount of \$219,140 is a duplicate obligation. This obligation was previously identified on the ROPS as Item No. 23. For consistency purposes between ROPS periods, Finance is moving the requested funding amount of \$219,140 from Item No. 47 to Item No. 23. Therefore, Item No. 47 should be retired on the ROPS as funding is no longer required and this is a duplicate obligation.
- On the ROPS 16-17 form, the Agency reported cash balances and activity for the period of July 1, 2015 through June 30, 2016. Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should be used prior to requesting RPTTF. Therefore, with the Agency's concurrence, the funding source for the following item has been reclassified to Other Funds and in the amount specified below:
 - Item No. 23 – Administrative Reimbursement in the amount of \$219,140. The Agency requests \$219,140 of Administrative Cost Allowance (ACA) for the ROPS A period; however, Finance is reclassifying \$51,000 to Other Funds. This item is an enforceable obligation; however, the obligation does not require payment from property tax revenues. Therefore, Finance is approving ACA in the amount of \$168,140 and the use of Other Funds in the amount of \$51,000 totaling \$219,140.

Except for the items denied in whole or in part or the item that has been adjusted, Finance is not objecting to the remaining items listed on your ROPS 16-17. The Agency's maximum approved RPTTF distribution for the reporting period is \$3,254,814 as summarized in the Approved RPTTF Distribution Table on Page 7 (See Attachment).

ROPS distributions will occur twice annually, one distribution for the ROPS A period, and one distribution for the 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>

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.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Satveer Ark, Analyst, at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'JUSTYN HOWARD', with a long, sweeping underline that extends to the left.

JUSTYN HOWARD
Program Budget Manager

cc: Ms. Cheryl Murase, Principal, City of Cudahy
Ms. Kristina Burns, Manager, Department of Auditor-Controller, Los Angeles County

Attachment

Approved RPTTF Distribution For the period of July 2016 through June 2017			
	ROPS A Period	ROPS B Period	Total
Requested RPTTF (excluding administrative obligations)	\$ 2,234,499	\$ 1,262,165	\$ 3,496,664
Requested Administrative RPTTF	125,000	125,000	250,000
Total RPTTF requested for obligations on ROPS 16-17	2,359,499	1,387,165	\$ 3,746,664
Adjustment to Agency Requested RPTTF	0	67,350	67,350
Adjustment to Agency Requested Administrative RPTTF	0	0	0
Total RPTTF adjustments	0	67,350	\$ 67,350
Total RPTTF requested	2,234,499	1,329,515	3,564,014
<u>Denied Items</u>			
Item No. 40	0	(7,500)	(7,500)
Item No. 41	0	(7,500)	(7,500)
Item No. 42	(100,000)	0	(100,000)
Item No. 43	(48,000)	(24,000)	(72,000)
Item No. 44	(127,000)	0	(127,000)
Item No. 45	0	(16,300)	(16,300)
Item No. 46	(75,000)	(75,000)	(150,000)
Item No. 48	(27,900)	0	(27,900)
	(377,900)	(130,300)	(508,200)
<u>Reclassified Item</u>			
Item No. 23	(51,000)	0	(51,000)
Total RPTTF authorized	1,805,599	1,199,215	\$ 3,004,814
Total Administrative RPTTF authorized	125,000	125,000	\$ 250,000
Total RPTTF approved for distribution	1,930,599	1,324,215	\$ 3,254,814