

May 17, 2016

Ms. Kelly McAdoo, Assistant City Manager
City of Hayward
777 B Street
Hayward, CA 94541

Dear Ms. McAdoo:

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 March 14, 2016. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Hayward 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 January 29, 2016. Finance issued a ROPS determination letter on March 14, 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 April 7, 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 No. 48 – The total outstanding balance for the Reentered Repayment Agreement (Reentry Agreement) with the City of Hayward (City) is overstated. Finance maintains that the balance for this item is overstated. The Reentered Agreement was approved by the Oversight Board on May 21, 2012, for a loan repayment in the amount of \$7,789,843. Therefore, Finance determined that the outstanding loan balance reported on the Agency's ROPS Detail Form should be \$7,789,843 less the amount paid in ROPS 15-16B.

During the Meet and Confer process, the Agency continued to contend that at the time the Reentered Agreement was approved and executed, the outstanding obligation was estimated to be \$7,789,843, which excluded \$2.2 million that was repaid in March 2011, but subsequently clawed back as part of the Due Diligence Review (DDR). The Agency also continued contended that the Oversight Board (OB) approved Resolution No. 2015-05 is clarification, not a reentered agreement, in order to reflect the amount that is outstanding based on the Reentered Agreement that was approved in 2012. However, in our letter dated November 13, 2015, Resolution No. 2015-05 was denied because at the time of execution of the 2012 Reentered Agreement, the outstanding balance was \$7,789,843. Furthermore, HSC section 34178 (a) states that an agency shall not enter or reenter into any agreements with the sponsoring entity. Therefore, the

OB does not have the authority to reenter into an agreement with the City for the \$2.2 million that was returned as part of the DDR.

Finance is approving a loan repayment of \$800,000 in Redevelopment Property Tax Trust Fund (RPTTF) funding on ROPS 16-17; therefore, the outstanding loan balance on the subsequent ROPS should be updated to reflect the loan repayments made during the ROPS 15-16B and ROPS 16-17 periods. In regards to the \$2.2 million that was returned as part of the DDR, if the OB makes a finding that the loan was for legitimate redevelopment purposes, and it meets the definition of a loan, the loan may be placed on a future ROPS for repayment. Refer to HSC section 34191.4 (b) for more guidance.

- Item No. 64 – Housing Authority Administrative Cost Allowance in the amount of \$150,000 is not allowed. Finance continues to deny this item. During the Meet and Confer process, the Agency objected to Finance's determination; however, no new information or documents were provided. 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 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) (2) 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 included in the City's CAFR, which identifies the Authority as a component unit of the City and states that the City is financially accountable for the component units.

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.

In addition, per Finance's letter dated March 14, 2016, we continue to make the following determinations not contested by the Agency during the 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. 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 items has been reclassified to Other Funds and in the amounts specified below:

- Item No. 6 – 2006 Tax Allocation Bonds in the amount of \$119,530. The Agency requests \$271,504 of RPTTF for July 1, 2016 through December 31, 2016 (ROPS A period); however, Finance is reclassifying \$119,530 to Reserve Balance. This item is an enforceable obligation for the ROPS 16-17 period. However, the obligation does not require payment from property tax revenues and the Agency has \$119,530 in available Reserve Balance. Therefore, Finance is approving RPTTF in the amount of \$151,974 and the use of Reserve Balance in the amount of \$119,530, totaling \$271,504 for the ROPS A period.
- Item No. 37 – Property Disposition Costs in the amount of \$50,000. The Agency requests \$167,654 of RPTTF for January 1, 2017 through June 30, 2017 (ROPS B period); however, Finance is reclassifying \$50,000 to Other Funds. This item is an enforceable obligation for the ROPS 16-17 period. However, the obligation does not require payment from property tax revenues and the Agency will receive \$50,000 in Other Funds during the ROPS B period. Therefore, Finance is approving RPTTF in the amount of \$33,827 and the use of available Other Funds in the amount of \$50,000, totaling \$83,827 for the ROPS B period.

Except for the items denied in whole or in part, 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 \$5,089,716 as summarized in the Approved RPTTF Distribution table on page 5 (see Attachment).

ROPS distributions will occur twice annually, one distribution for the July 1, 2016 through December 31, 2016 (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>

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 Mary Halterman, Analyst, at (916) 445-3274.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Ms. Tracy Vesely, Finance Director, City of Hayward
Ms. Carol S. Orth, Tax Analysis, Division Chief, Alameda 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)	\$ 1,940,873	\$ 3,068,373	\$ 5,009,246
Requested Administrative RPTTF	200,000	200,000	400,000
Total RPTTF requested for obligations on ROPS	2,140,873	3,268,373	\$ 5,409,246
Total RPTTF requested	1,940,873	3,068,373	5,009,246
<u>Reclassified Items</u>			
Item No. 6	(119,530)	0	(119,530)
Item No. 37	0	(50,000)	(50,000)
	(119,530)	(50,000)	(169,530)
Total RPTTF authorized	1,821,343	3,018,373	\$ 4,839,716
Total Administrative RPTTF requested	200,000	200,000	400,000
<u>Denied Item</u>			
Item No. 64	(75,000)	(75,000)	(150,000)
Total Administrative RPTTF authorized	125,000	125,000	\$ 250,000
Total RPTTF approved for distribution	1,946,343	3,143,373	\$ 5,089,716