



May 17, 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

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 1, 2016. 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 of July 1, 2016 through June 30, 2017 (ROPS 16-17) to Finance on January 28, 2016. Finance issued a ROPS determination letter on April 1, 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 13, 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. 6 and 13 – Japanese Schoolhouse assessment fees and Fort Ord Reuse Authority Pass-through payments. Finance continues to deny these. During the Meet and Confer, the Agency contended they will be unable to transfer the property to the County of Monterey (County) by June 30, 2016. However, the Agency did not provide any viable reasons that these properties could not be immediately transferred to the County. Therefore, as both of the properties were approved for transfer to the County as governmental use on the Long-Range Property Management Plan approved by Finance on December 31, 2015, the properties should be immediately transferred to the County. As such, these items are not enforceable obligations and the requested amounts of \$100 payable from the Redevelopment Property Tax Trust Fund (RPTTF) and \$90,000 payable from Other Funds, respectively, are not eligible for funding on this ROPS.
- 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 approves this item for \$0 at this time.

As previously determined, the DDA is a valid agreement as 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.

On June 28, 2011, the Agency 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 DDA must meet the requirements of HSC section 34181 (e) to increase net revenue and decrease liabilities. As such, Finance is approving this item in the amount of \$0 at this time to allow the Agency an opportunity to properly assign or amend the 2005 DDA in accordance with HSC section 34181 (e). If the Agency is able to properly assign or amend the DDA, the Agency can request an amendment to the ROPS 16-17 pursuant to HSC section 34177 (o) (1) (E).

- 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.
- Claimed administrative costs exceed the allowance by \$250,000. Finance continues to maintain that the request exceeds the allowance. Specifically, 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. This calculation is also required to exclude RPTTF amounts distributed for loan repayments to the sponsoring entity and the ACA. In the previous fiscal year, the Agency was only distributed RPTTF for the ACA totaling \$100,991. This effectively means for purposes of calculating the 2016-17 ROPS ACA the base amount is \$0 and 50 percent of \$0 is \$0. 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.

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>

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 (l). 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
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Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-3274.

Sincerely,



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>Adjusted Items</u>			
Item No. 8	(797,274)	(1,276,973)	(2,074,247)
<u>Denied Items</u>			
Item No. 6	(100)	0	(100)
Item No. 10	(150,000)	(150,000)	(300,000)
	(947,374)	(1,426,973)	(2,374,347)
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

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)