



May 17, 2017

Ms. Sophie L. Smith, Economic Development Division Head
City of Victorville
14343 Civic Drive
Victorville, CA 92392

Dear Ms. Smith:

Subject: 2017-18 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 11, 2017. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Victorville Successor Agency (Agency) submitted an annual ROPS for the period of July 1, 2017 through June 30, 2018 (ROPS 17-18) to Finance on January 19, 2017. Subsequently, the Agency requested a Meet and Confer on one or more of the determinations made by Finance. The Meet and Confer was held on April 27, 2017.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer, Finance has completed its review of the specific determinations being disputed:

- Item No. 52 – Bear Valley Housing Loan in the total outstanding obligation amount of \$806,118. Finance continues to deny this item. Finance previously denied this item for the following reasons:
 - The 1999 agreement between the Victorville Public Development Corporation (VPDC) and the former Redevelopment Agency (RDA) was evaluated as an agreement between the RDA and its creator and therefore not an enforceable obligation under HSC section 34171 (d) (2).
 - The agreement does not fit the definition of a loan since the agreement did not include a mandatory repayment schedule as required by HSC section 34191.4. Further, to the extent this agreement attempted to have VPDC loan tax increment to the Agency, which the Agency previously loaned to VPDC, such an agreement is suspect and not an enforceable obligation as HSC section 34171 (d) (1) (E) excludes contracts, which are void for public policy. Finance is questioning the public policy of the RDA agreeing to accept a loan of its own tax increment funds in addition to paying interest on said amounts. Also, because the loan was purportedly funded with Low and Moderate Income Housing Funds (LMIHF) under the control of the former RDA, it is unclear what authority the VPDC relied upon in pledging funds not under its control. In addition, to the extent the request of Item No. 52 is a payment pursuant to HSC section 34171 (d) (1) (G),

(repayments to amounts borrowed from, or payments owing to the LMIHF) such a request is also invalid.

- HSC section 34171 (d) (1) (G) specifically limits repayments to amounts borrowed from, or payments owing to, the LMIHF of a former RDA, which had been deferred. The amount the Agency contends is due was not a result of funds being borrowed or amounts owed because of a deferral of the RDA's LMIHF. Pursuant to the facts presented, the amounts were borrowed from VPDC. As such, this item does not meet the definition of an enforceable obligation pursuant to HSC section 34171 (d) (1) (G). Finally, to the extent Item No. 52 relies on the 2010 Amended and Restated Agreement as the basis for the payment request, all of the above reasons also apply to the 2010 agreement.

During the Meet and Confer, the Agency contended the loan agreement was between two separate RDA funds, housing and non-housing; therefore, HSC section 34171 (d) (2) does not apply. The Agency further contended the amounts were not borrowed from the VPDC. Instead, the VPDC was asked to approve the original loan because the RDA had previously pledged its housing funds to a VPDC project and the RDA needed VPDC approval to have such pledged funds loaned to the RDA's non-housing project fund. Therefore, the loan of funds should be considered as a valid enforceable obligation. However, the Agency did not provide documentation to support a change in our original position. As such, Finance continues to deny this item based on the reasons stated above. Therefore, the requested amount of \$500,000 is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item Nos. 53 and 54 – Unfunded Employee Retirement Obligations in the total outstanding amount of \$337,000 and \$472,000, respectively. Finance continues to deny these items. Originally, Finance denied these items because the agreements entered into on January 1, 1967 and February 18, 2012 with respect to these obligations are between the California Public Employees' Retirement System (CalPERS) and the City of Victorville (City); the former RDA is not a party to the contracts.

During the Meet and Confer, the Agency contended the Agency is obligated to fund unfunded employee liabilities pursuant to an existing contractual relationship between the former RDA and the City related to staffing and employees. The Agency did not provide documentation to support the alleged relationship. It is our understanding the Agency refers to a Reimbursement Agreement entered into at the time of RDA creation; however, no documents supporting this information were provided. Even if the Reimbursement Agreement had been provided, it would not be eligible for repayment. HSC section 34171 (d) (2) states loan agreements can be considered enforceable if entered into within the first two years of the RDA's existence. HSC section 34171 (d) (1) (B) defines a loan as a loan of money that is legally required to be repaid pursuant to a repayment schedule or other mandatory repayment terms. Therefore, the Reimbursement Agreement would not be considered a loan agreement under dissolution law as there were no loans of money.

The Agency further contends that pursuant to HSC section 34171 (d) (1) C), enforceable obligations include legally enforceable payments in connection with Agency employees such as pension payments and pension obligations. In addition, dissolution law does not require a contract between the Agency and CalPERS in order for unfunded pension

liabilities to be enforceable. However, absent a contract or agreement, the Agency's responsibility for payment of these obligations is not legally enforceable. Because the only agreement provided to Finance is between CalPERS and the City, the Agency's obligation for payment of these obligations is unsupported.

Therefore, these items are not enforceable obligations and the requested amounts of \$337,000 and \$472,000, respectively, in RPTTF funding are not allowed.

In addition, per Finance's letter dated April 11, 2017, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item No. 22 – Southern California Logistics Airport Authority Loan in the amount of \$500,000 has been partially reclassified. This item is an enforceable obligation for the ROPS 17-18 period. However, the obligation does not require payment from property tax revenues and the Agency has \$11,049 in available Other Funds. Therefore, Finance is approving RPTTF in the amount of \$488,951 and the use of Other Funds in the amount of \$11,049, totaling \$500,000 for the ROPS 17-18 period.

Except for the items adjusted, Finance is not objecting to the remaining items listed on the ROPS 17-18.

The Agency's maximum approved RPTTF distribution for the reporting period is \$4,229,602 as summarized in the Approved RPTTF Distribution table on Page 5 (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2017 through December 31, 2017 period (ROPS A period) and one distribution for the January 1, 2018 through June 30, 2018 period (ROPS B period) based on Finance approved amounts. Since Finance's determination is for the entire ROPS 17-18 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 17-18 form, the Agency reported cash balances and activity for the period of January 1, 2016 through June 30, 2016. Finance reviews the Agency's self-reported cash balances on an ongoing basis. The Agency should be prepared to submit financial records and bridging documents to support the cash balances reported upon request.

The Agency was not required to report the estimated obligations versus actual payments (prior period adjustment) associated with the July 1, 2015 through June 30, 2016 period (ROPS 15-16). The Agency will report actual payments for ROPS 15-16 on ROPS 18-19, pursuant to HSC section 34186 (a) (1). A prior period adjustment may be applied to the Agency's ROPS 18-19 RPTTF distribution. Therefore, the Agency should retain any unexpended ROPS 15-16 RPTTF.

This is Finance's final determination regarding the obligations listed on the ROPS 17-18. This determination only applies to items when funding was requested for the 12-month period.

The ROPS 17-18 form submitted by the Agency and Finance's determination letter will be posted on Finance's website:

<http://dof.ca.gov/Programs/Redevelopment/ROPS/>

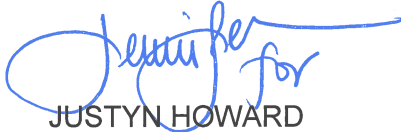
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Finance's determination is effective for the ROPS 17-18 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if not denied on this ROPS or a preceding 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 law. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax increment is limited to the amount of funding available to the Agency in the RPTTF.

Please direct inquiries to Anna Kyumba, Supervisor, or Nicole Prisakar, Lead Analyst, at (916) 322-2985.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Mr. Keith C. Metzler, Assistant City Manager, City of Victorville
Ms. Linda Santillano, Property Tax Manager, San Bernardino County

Attachment

Approved RPTTF Distribution			
For the period of July 2017 through June 2018			
	ROPS A Period	ROPS B Period	ROPS 17-18 Total
RPTTF Requested	\$ 3,524,733	\$ 1,774,918	\$ 5,299,651
Administrative RPTTF Requested	125,000	125,000	250,000
Total RPTTF Requested	3,649,733	1,899,918	5,549,651
RPTTF Requested	3,524,733	1,774,918	5,299,651
<u>Adjustments</u>			
Item No. 22	(11,049)	0	(11,049)
Item No. 52	(250,000)	(250,000)	(500,000)
Item No. 53	(168,500)	(168,500)	(337,000)
Item No. 54	(236,000)	(236,000)	(472,000)
	(665,549)	(654,500)	(1,320,049)
RPTTF Authorized	2,859,184	1,120,418	3,979,602
Administrative RPTTF Authorized	125,000	125,000	250,000
Total RPTTF Approved for Distribution	\$ 2,984,184	\$ 1,245,418	\$ 4,229,602