



**SUCCESSOR AGENCY TO THE  
RICHMOND COMMUNITY  
REDEVELOPMENT AGENCY**

# AGENDA REPORT

**DATE:** September 21, 2016

**TO:** Honorable Chairperson Linda Jackson-Whitmore and Members of the Oversight Board of the Successor Agency to the Dissolved Richmond Community Redevelopment Agency

**FROM:** Successor Agency Staff

**SUBJECT:** OVERSIGHT BOARD'S CONSIDERATION OF A RESOLUTION APPROVING THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY'S AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD JANUARY 1, 2017 TO JUNE 30, 2017 (AMENDED ROPS 16-17B) PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34177

## **STATEMENT OF THE ISSUE:**

The Successor Agency to the Richmond Community Redevelopment Agency is required to amend Recognized Obligation Payment Schedule ("ROPS") 16-17b for the payment of approved enforceable obligations of the Metrowalk Phase II, the Bradley A Moody Memorial Underpass, and the Miraflores Housing Development projects pursuant to California Health and Safety Code Section 34177.

## **RECOMMENDED ACTION:**

ADOPT a resolution approving the Successor Agency to the Richmond Community Redevelopment Agency's Amended Recognized Obligation Payment Schedule for the period January 2017 to June 2017 (Amended ROPS 16-17b) pursuant to California Health and Safety Code 34177.

## **FINANCIAL IMPACT OF RECOMMENDATION:**

Funds not obligated on the amended ROPS 16-17b would be unavailable for Successor Agency debt and other obligations and those funds would be redirected to local taxing entities.

## **DISCUSSION:**

### *Background*

AB 1X 26 suspended all new redevelopment activities and incurrence of indebtedness by terminating virtually all otherwise legal functions of redevelopment agencies and mandating a liquidation of any assets for the benefit of local taxing agencies. Some debts are allowed to be repaid, but any such remittances are to be managed by a successor agency that functions primarily as a debt repayment administrator. The successor agency cannot initiate any new redevelopment projects or programs. The activities of the successor agency are overseen by an oversight board, comprised primarily of representatives of other taxing agencies, until such time as the remaining debts of the former redevelopment agency are paid off, all former agency assets are liquidated, and all property taxes redirected to local taxing agencies.

A budget trailer bill drafted by DOF purportedly to “clean up” certain conflicting and confusing provisions of AB1X26 was signed by Governor Jerry Brown on June 27<sup>th</sup>, 2012. On September 22, 2015 Governor Jerry Brown signed SB 107; which made several significant changes to the redevelopment dissolution process, including modification of the Recognized Obligation Payment Schedule (“ROPS”) submittal cycle from six month to annual intervals.

Under Health and Safety Code Section 34177(o), a Recognized Obligation Payment Schedule (“ROPS”) must be prepared and submitted on February 1 of every year and list all of the “enforceable obligations” of the former agency. The ROPS is subject to approval by the Oversight Board and the Department of Finance (“DOF”). “Enforceable obligations” include: bonds; loans legally required to be repaid pursuant to a payment schedule with mandatory repayment terms; payments required by the federal government, preexisting obligations to the state or obligations imposed by state law; judgments, settlements or binding arbitration decisions that bind the agency; legally binding and enforceable agreements or contracts; and contracts or agreements necessary for the continued administration or operation of the successor agency, including agreements to purchase or rent office space, equipment and supplies.

Under Health and Safety Code Section 34177(o)(1)(E), once per Recognized Obligation Payment Schedule period, and no later than October 1, one amendment to the Recognized Obligation Payment Schedule may be submitted if a revision is necessary for the payment of approved enforceable obligations during the second one-half of the Recognized Obligation Payment Schedule period, which is defined as January 1 to June 30, inclusive.

### *Prior ROPS and Disputes*

On January 24, 2012 the City Council formed the Successor Agency to the Richmond Community Redevelopment Agency (“Successor Agency”) and approved the first ROPS pursuant to AB 1X26. The proposed amended ROPS 16-17b will be the eleventh ROPS

prepared by the Successor Agency. A detailed description of the approval dates, DOF reviews, and disputes resolved through the “meet and confer” process with DOF have been presented in the Agenda Reports prepared for each of the prior ROPS. For brevity, this Agenda Report omits the recap of the prior ROPS in favor of focusing on the most recently approved ROPS for the period July 2016 to June 2017 (“ROPS 16-17”).

On January 19, 2016 the Successor Agency Board approved ROPS 16-17. The Oversight Board approved ROPS 16-17 on January 20, 2016. On April 14, 2016 DOF approved ROPS 16-17 but adjusted several lines and denied the repayment of revolving loan funds spent on remediation of the Miraflores project site (see Attachment 3 – April 14, 2016 letter from DOF).

Staff challenged the denied item via the “meet and confer” process. The “meet and confer” session was held on April 28, 2016. On May 24, 2016, DOF issued their final determination on the disputed item in ROPS 16-17 (see Attachment 4 – May 24, 2016 letter from DOF). The determination included the approval of the repayment of revolving loan funds spent on remediation of the Miraflores project site.

### *Summary*

Due to unavoidable delays on the Metrowalk Phase II and Bradley A Moody Memorial Underpass projects and the recent approval of the Disposition and Development Agreement (DDA) for the Miraflores Housing Development a revision to the approved ROPS 16-17 is necessary for the payment of approved enforceable obligations during the second one-half of the Recognized Obligation Payment Schedule period January 1, 2017 to June 30, 2017.

Amended ROPS 16-17b proposed for approval is consistent with the final determinations of DOF to date, and is required to be submitted to DOF by October 1, 2016 to avoid penalties. Upon the Successor Agency Board’s approval of Amended ROPS 16-17b, staff will submit Amended ROPS 16-17b to the Oversight Board for their consideration and approval, and upon such approval, to the Contra Costa County Auditor-Controller, the California State Controller, and the DOF.

### **DOCUMENTS ATTACHED:**

Attachment 1 – Resolution

Attachment 2 – Exhibit A to Resolution (Amended ROPS 16-17b)

Attachment 3 – April 14, 2016 letter from DOF

Attachment 4 – May 24, 2016 letter from DOF

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY APPROVING AND ADOPTING AN AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE COVERING THE PERIOD JANUARY 2017 - JUNE 2017 (AMENDED ROPS 16-17b), PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(o)(1)(E)**

**WHEREAS**, pursuant to Health and Safety Code Section 34173, the City of Richmond created the Successor Agency to the Richmond Community Redevelopment Agency (“Successor Agency”) by Resolution No. 4-12 on January 24, 2012; and

**WHEREAS**, Health and Safety Code Section 34177(o)(1)(E), allows one amendment during the Recognized Obligation Payment Schedule period to be prepared and submitted, no later than October 1, 2016, if a revision is necessary for the payment of approved enforceable obligations during the second one-half of the Recognized Obligation Payment Schedule period, which is defined as January 1, 2017 to June 30, 2017, inclusive; and

**WHEREAS**, Health and Safety Code Section 34177(l)(2)(b) requires the Successor Agency to submit the amended ROPS to the Successor Agency’s oversight board for its approval, and upon such approval, the Successor Agency is required to submit a copy of the approved amended ROPS (“Approved Amended ROPS”) to the Contra Costa County Auditor-Controller, the California State Controller, and the State of California Department of Finance, and post the Approved Amended ROPS on the Successor Agency’s website; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred; and

**WHEREAS**, by the Agenda Report accompanying this Resolution, the Oversight Board of the Successor Agency to the Richmond Community Redevelopment Agency has been provided with additional information upon which the findings and actions set forth in this Resolution are based.

**NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

**Section 2. CEQA Compliance.** The approval of the ROPS through this Resolution does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

**Section 3. Approval of Initial Draft of the ROPS.** The Oversight Board hereby approves and adopts the amended ROPS for the period January 2017 - June 2017 (Amended ROPS 16-17b), in substantially the form attached to this Resolution as Exhibit A, as required by Health and Safety Code Section 34177.

**Section 4. Transmittal of Initial Draft of the ROPS.** The Executive Director is hereby authorized and directed to take any action necessary to carry out the purposes of this Resolution and comply with applicable law regarding the amended ROPS, including submission of the Approved Amended ROPS to the Contra Costa County Auditor-Controller, the California State Controller, and the State of California Department of Finance, and posting the Approved Amended ROPS on the Successor Agency's website.

**Section 5. Effectiveness.** This Resolution shall take effect immediately upon its adoption.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Oversight Board of the Successor Agency to the Richmond Community Redevelopment Agency, on September 21, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Chair of the Oversight Board

ATTEST:

---

Secretary to the Oversight Board

**EXHIBIT A**

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE**

**[Attached behind this page]**

**Amended Recognized Obligation Payment Schedule (ROPS 16-17B) - Summary**

Filed for the January 1, 2017 through June 30, 2017 Period

Successor Agency:

Richmond

County:

Contra Costa

<b>Current Period Requested Funding for Enforceable Obligations (ROPS Detail)</b>	<b>ROPS 16-17B Authorized Amounts</b>	<b>ROPS 16-17B Requested Adjustments</b>	<b>ROPS 16-17B Amended Total</b>
<b>A Enforceable Obligations Funded as Follows (B+C+D):</b>	<b>\$ 1,463,000</b>	<b>\$ 7,998,515</b>	<b>\$ 9,461,515</b>
B Bond Proceeds	116,000	-	116,000
C Reserve Balance	-	-	-
D Other Funds	1,347,000	7,998,515	9,345,515
<b>E Redevelopment Property Tax Trust Fund (RPTTF) (F+G):</b>	<b>\$ 8,717,716</b>	<b>\$ -</b>	<b>\$ 8,717,716</b>
F RPTTF	8,468,225	-	8,468,225
G Administrative RPTTF	249,491	-	249,491
<b>H Current Period Enforceable Obligations (A+E):</b>	<b>\$ 10,180,716</b>	<b>\$ 7,998,515</b>	<b>\$ 18,179,231</b>

Certification of Oversight Board Chairman:  
Pursuant to Section 34177 (o) of the Health and Safety code,  
I hereby certify that the above is a true and accurate  
Recognized Obligation Payment Schedule for the above  
named successor agency.

Linda Jackson-Whitmore Chair of Oversight Board

Name Title

/s/ \_\_\_\_\_

Signature Date



April 14, 2016

Ms. Terri Simon, Redevelopment Specialist  
City of Richmond  
450 Civic Center Plaza, 2nd floor  
Richmond, CA 94804

Dear Ms. Simon:

Subject: 2016-17 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Richmond 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 22, 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 Nos. 5 and 6 – 2004A Tax Allocation Revenue Bonds and Section 108 Housing and Urban Development Loans have been adjusted. It is our understanding the Agency requested Redevelopment Property Tax Trust Funds (RPTTF) for Item No. 5 in error for the January 1, 2017 through June 30, 2017 period (ROPS B period). The Agency transposed the \$43,796 requested for Item No. 5 with Item No. 6; therefore, as requested by the Agency, Finance has reduced the funding for Item No. 5 to zero and has increased the funding for Item No. 6 from zero to \$43,796 for the ROPS B period.
- Item No. 41 – Contra Costa County Tax Assessments in the amount of \$80,000 have been adjusted. The Agency requested funding to pay tax assessments on property it no longer owns. According to documentation provided to Finance, of the \$80,000 requested to pay tax assessments, \$64,494 represents taxes due on properties transferred to the City of Richmond (City) pursuant to the Agency's Long-Range Property Management Plan (LRPMP), approved by Finance on December 31, 2015. As such, a portion of tax assessments are now the responsibility of the City as the current owner. Therefore, of the \$80,000 requested, \$15,506 is approved for Agency-owned properties, and the difference, \$64,494 (\$80,000 - \$15,506) is not eligible for RPTTF.
- Item No. 69 – Miraflores Legal Services in the amount of \$25,000 in Bond Proceeds requested for ROPS 16-17. The Agency received a Finding of Completion on December 9, 2014, and is allowed to expend bond proceeds derived from bonds issued prior to January 1, 2011 (pre-2011 bond proceeds) in a manner consistent with the bond covenants. In this instance, Finance approval is specifically limited to the use of excess pre-2011 bond proceeds pursuant to HSC section 34191.4 (c) (1). Therefore, we have

changed the Obligation Type/Category from 'Legal' to 'Bond-Funded Project-Pre 2011'. Finance approval, however, should not be construed as approval of the agreement, including its terms and conditions, as an ongoing enforceable obligation.

- Item No. 120 – Miraflores Environmental Protection Agency (EPA) Revolving Loan Fund loan repayment in the amount of \$654,000 is not allowed. Finance continues to deny this item. The Agency contends they are required to repay, and retire, an EPA Revolving Loan Fund, and deems the loan as an enforceable obligation.

The EPA awarded the Agency federal funding in the amount of \$1,000,000 pursuant to an EPA Assistance Agreement, dated September 2, 2009, to establish a Brownfield Revolving Loan Fund (RLF) program for the purpose of cleaning up contaminated fields.

In February, 2011, the former redevelopment agency (RDA) loaned itself \$600,000 of those funds for the Miraflores Housing Project. The Agency contends that the repayment is required under the EPA Agreement. The requested amount includes accrued interest of \$54,000.

However, the Agency has not provided sufficient documentation to support an obligation for the Agency to repay. The EPA Agreement does not specify repayment terms or requirements of the repayment of the loan to the RLF when the loan was made to the recipient itself. Additionally, no documentation was provided to show the actual loan was made. As such, it is unclear how the RDA borrowed funds from the RLF or what obligation remains. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding of \$654,000.

- Item No. 123 – Miraflores Housing/ Baxter Creek Project in the amount of \$3,835,000 has been adjusted. It is our understanding the Agency has included \$408,555 for a 15 percent construction contingency and \$40,855 for a 10 percent construction management contingency with regards to the preservation and restoration of the Miraflores/Baxter Creek Project. However, the allocation of funds for unknown contingencies is not an allowable use of funds. Therefore, Finance has adjusted the amount of RPTTF requested by \$449,410 (\$408,555 + \$40,855), from \$1,200,000 to \$750,590 (\$1,200,000 - \$449,410).

Furthermore, the Agency requested the authority to spend \$2,635,000 in Other Funds. These Other Funds are derived from grants awarded to the City, and not the Agency. Finance reminds the Agency and City that the City may spend its grant funds on the project without review and approval from Finance.

- Item No. 124 – Property Disposition Costs in the amount of \$100,000 are not allowed. The Agency provided an estimate of property disposition costs; however, the document indicates \$85,000 of the requested amount relates to properties transferred to the City for future development pursuant to the approved LRPMP. Furthermore, the Agency was unable to provide sufficient documentation to support the remaining \$15,000 requested for the remaining properties for sale. Therefore, this item is not an enforceable obligation and the requested amount of \$100,000 is not eligible for RPTTF funding for the ROPS 16-17 period. To the extent the Agency can provide documentation, such as invoices or vendor contracts for the properties remaining to be

sold, to support the requested funding, the Agency may be able to obtain RPTTF funding in the future.

- The Agency's claimed administrative costs exceed the allowance by \$38,440. 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 \$537,422 for the fiscal year 2016-17. Although \$575,862 is claimed for administrative cost, only \$537,422 is available pursuant to the cap. Therefore, \$38,440 of excess ACA is not allowed. Finance also notes the Agency requested \$500,000 in Other Funds for administrative costs. It is our understanding these Other Funds are City grant funds. As the Agency has exceeded its ACA, the Agency shall not be eligible for reimbursement of these funds pursuant to HSC section 34173 (h).

Except for the items denied in whole or in part or the items that have been adjusted, 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/](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 \$17,291,825 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:

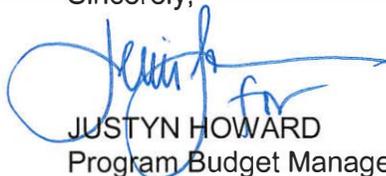
<http://www.dof.ca.gov/redevelopment/ROPS>

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.

Please direct inquiries to Nichelle Thomas, Supervisor, or Alexander Watt, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Program Budget Manager

cc: Mr. Chadrick Smalley, Manager, City of Richmond  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County

**Attachment**

<b>Approved RPTTF Distribution</b>			
<b>For the period of July 2016 through June 2017</b>			
	<b>ROPS A Period</b>	<b>ROPS B Period</b>	<b>Total</b>
Requested RPTTF (excluding administrative obligations)	\$ 9,464,082	\$ 8,558,225	\$ 18,022,307
Requested Administrative RPTTF	<u>287,931</u>	<u>287,931</u>	<u>575,862</u>
<b>Total Requested RPTTF on ROPS 16-17</b>	<b>\$ 9,752,013</b>	<b>\$ 8,846,156</b>	<b>\$ 18,598,169</b>
Adjustment to Agency Requested RPTTF			
Item No. 5	0	(43,796)	(43,796)
Item No. 6	<u>0</u>	<u>43,796</u>	<u>\$ 43,796</u>
<b>Total RPTTF adjustments</b>	<b>0</b>	<b>0</b>	<b>\$ 0</b>
<b>Total RPTTF Requested</b>	<b>9,464,082</b>	<b>8,558,225</b>	<b>18,022,307</b>
<u>Denied Items</u>			
Item No. 41	(24,494)	(40,000)	(64,494)
Item No. 120	(654,000)	0	(654,000)
Item No. 123	(449,410)	0	(449,410)
Item No. 124	<u>(50,000)</u>	<u>(50,000)</u>	<u>(100,000)</u>
	<u>(1,177,904)</u>	<u>(90,000)</u>	<u>(1,267,904)</u>
<b>Total RPTTF authorized</b>	<b>8,286,178</b>	<b>8,468,225</b>	<b>\$ 16,754,403</b>
<b>Total Administrative RPTTF requested</b>	<b>287,931</b>	<b>287,931</b>	<b>575,862</b>
Administrative costs in excess of the cap (see Admin Cost Cap table below)	<u>0</u>	<u>(38,440)</u>	<u>(38,440)</u>
<b>Total Administrative RPTTF authorized</b>	<b>287,931</b>	<b>249,491</b>	<b>\$ 537,422</b>
<b>Total RPTTF approved for distribution</b>	<b>8,574,109</b>	<b>8,717,716</b>	<b>\$ 17,291,825</b>

<b>Administrative Cost Allowance Cap Calculation</b>	
Actual RPTTF distributed for fiscal year 2015-16	\$ 18,491,802
Less sponsoring entity loan and Administrative RPTTF	<u>577,726</u>
Actual RPTTF distributed for 2015-16 after adjustment	17,914,076
Administrative Cap for 2016-17 per HSC section 34171 (b)	537,422
ROPS 16-17 Administrative RPTTF after Finance adjustments	<u>575,862</u>
<b>Administrative Cost Allowance in excess of the cap</b>	<b>\$ (38,440)</b>

REVISED

May 24, 2016

Ms. Terri Simon, Redevelopment Specialist  
City of Richmond  
450 Civic Center Plaza, 2nd floor  
Richmond, CA 94804

Dear Ms. Simon:

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 14, 2016. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Richmond 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 22, 2016. Finance issued a ROPS determination letter on April 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 28, 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. 120 – Miraflores Environmental Protection Agency (EPA) Revolving Loan Fund loan repayment in the amount of \$654,000. Finance no longer denies this item. Previously, the Agency submitted Oversight Board Resolution No. 3-16 (Resolution) approving a Closeout Agreement between the Agency and the U.S. EPA dated June 13, 2013, that details the continued use of accrued program income. Finance objected to the Resolution in our determination letter on March 8, 2016, and Finance continues to deny the Closeout Agreement as an enforceable obligation.

During the Meet and Confer, the Agency contended that this item is an enforceable obligation because they are required to retire a U.S. Environmental Protection Agency (EPA) Revolving Loan Fund. Documents provided by Agency included an Assistance Agreement which identifies the award of a loan in the amount of \$1,000,000 from the U.S. EPA to the former Redevelopment Agency (RDA) to support the development and implementation of the Revolving Loan Fund Program. Review of the Assistance Agreement clearly identifies a loan of funds from the U.S. EPA to the former RDA, which is subject for repayment. The Agency also provided a breakdown that shows an amount of \$600,000 was utilized by the former RDA for cleanup projects at the Miraflores site. Therefore, Finance approves this item as an enforceable obligation pursuant to the Assistance Agreement and not the Closeout Agreement.

Furthermore, as recognized in the determination letter on March 8, 2016, which attempted to approve the Closeout Agreement, the Agency does not have the authority to loan out any funds, and because the Closeout Agreement is not effective, Finance recommends the Agency negotiate a Closeout Agreement with the EPA that is within the confines of the Agency's authority under Dissolution Law.

In addition, per Finance's letter dated April 14, 2016, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item Nos. 5 and 6 – 2004A Tax Allocation Revenue Bonds and Section 108 Housing and Urban Development Loans have been adjusted. It is our understanding the Agency requested Redevelopment Property Tax Trust Funds (RPTTF) for Item No. 5 in error for the January 1, 2017 through June 30, 2017 period (ROPS B period). The Agency transposed the \$43,796 requested for Item No. 5 with Item No. 6; therefore, as requested by the Agency, Finance has reduced the funding for Item No. 5 to zero and has increased the funding for Item No. 6 from zero to \$43,796 for the ROPS B period.
- Item No. 41 – Contra Costa County Tax Assessments in the amount of \$80,000 have been adjusted. The Agency requested funding to pay tax assessments on property it no longer owns. According to documentation provided to Finance, of the \$80,000 requested to pay tax assessments, \$64,494 represents taxes due on properties transferred to the City of Richmond (City) pursuant to the Agency's Long-Range Property Management Plan (LRPMP), approved by Finance on December 31, 2015. As such, a portion of tax assessments are now the responsibility of the City as the current owner. Therefore, of the \$80,000 requested, \$15,506 is approved for Agency-owned properties, and the difference, \$64,494 (\$80,000 - \$15,506) is not eligible for RPTTF.
- Item No. 69 – Miraflores Legal Services in the amount of \$25,000 in Bond Proceeds requested for ROPS 16-17. The Agency received a Finding of Completion on December 9, 2014, and is allowed to expend bond proceeds derived from bonds issued prior to January 1, 2011 (pre-2011 bond proceeds) in a manner consistent with the bond covenants. In this instance, Finance approval is specifically limited to the use of excess pre-2011 bond proceeds pursuant to HSC section 34191.4 (c) (1). Therefore, we have changed the Obligation Type/Category from 'Legal' to 'Bond-Funded Project-Pre 2011'. Finance approval, however, should not be construed as approval of the agreement, including its terms and conditions, as an ongoing enforceable obligation.
- Item No. 123 – Miraflores Housing/Baxter Creek Project in the amount of \$3,835,000 has been adjusted. It is our understanding the Agency has included \$408,555 for a 15 percent construction contingency and \$40,855 for a 10 percent construction management contingency with regards to the preservation and restoration of the Miraflores/Baxter Creek Project. However, the allocation of funds for unknown contingencies is not an allowable use of funds. Therefore, Finance has adjusted the amount of RPTTF requested by \$449,410 (\$408,555 + \$40,855), from \$1,200,000 to \$750,590 (\$1,200,000 - \$449,410).

Furthermore, the Agency requested the authority to spend \$2,635,000 in Other Funds. These Other Funds are derived from grants awarded to the City, and not the Agency. Finance reminds the Agency and City that the City may spend its grant funds on the project without review and approval from Finance.

- Item No. 124 – Property Disposition Costs in the amount of \$100,000 are not allowed. The Agency provided an estimate of property disposition costs; however, the document indicates \$85,000 of the requested amount relates to properties transferred to the City for future development pursuant to the approved LRPMP. Furthermore, the Agency was unable to provide sufficient documentation to support the remaining \$15,000 requested for the remaining properties for sale. Therefore, this item is not an enforceable obligation and the requested amount of \$100,000 is not eligible for RPTTF funding for the ROPS 16-17 period. To the extent the Agency can provide documentation, such as invoices or vendor contracts for the properties remaining to be sold, to support the requested funding, the Agency may be able to obtain RPTTF funding in the future.
- The Agency's claimed administrative costs exceed the allowance by \$38,440. 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 \$537,422 for the fiscal year 2016-17. Although \$575,862 is claimed for administrative cost, only \$537,422 is available pursuant to the cap. Therefore, \$38,440 of excess ACA is not allowed. Finance also notes the Agency requested \$500,000 in Other Funds for administrative costs. It is our understanding these Other Funds are City grant funds. As the Agency has exceeded its ACA, the Agency shall not be eligible for reimbursement of these funds pursuant to HSC section 34173 (h).

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 \$17,945,825 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 Satveer Ark, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Program Budget Manager

cc: Mr. Chadrick Smalley, Manager, City of Richmond  
Mr. Bob Campbell, Auditor-Controller, Contra Costa 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)	\$ 9,464,082	\$ 8,558,225	\$ 18,022,307
Requested Administrative RPTTF	287,931	287,931	575,862
<b>Total Requested RPTTF on ROPS 16-17</b>	<b>\$ 9,752,013</b>	<b>\$ 8,846,156</b>	<b>\$ 18,598,169</b>
Adjustment to Agency Requested RPTTF			
Item No. 5	0	(43,796)	(43,796)
Item No. 6	0	43,796	\$ 43,796
<b>Total RPTTF adjustments</b>	<b>0</b>	<b>0</b>	<b>\$ 0</b>
<b>Total RPTTF Requested</b>	<b>9,464,082</b>	<b>8,558,225</b>	<b>18,022,307</b>
<u>Denied Items</u>			
Item No. 41	(24,494)	(40,000)	(64,494)
Item No. 123	(449,410)	0	(449,410)
Item No. 124	(50,000)	(50,000)	(100,000)
	(523,904)	(90,000)	(613,904)
<b>Total RPTTF authorized</b>	<b>8,940,178</b>	<b>8,468,225</b>	<b>\$ 17,408,403</b>
<b>Total Administrative RPTTF requested</b>	<b>287,931</b>	<b>287,931</b>	<b>575,862</b>
Administrative costs in excess of the cap (see Admin Cost Cap table below)	0	(38,440)	(38,440)
<b>Total Administrative RPTTF authorized</b>	<b>287,931</b>	<b>249,491</b>	<b>\$ 537,422</b>
<b>Total RPTTF approved for distribution</b>	<b>9,228,109</b>	<b>8,717,716</b>	<b>\$ 17,945,825</b>

Administrative Cost Allowance Cap Calculation	
Actual RPTTF distributed for fiscal year 2015-16	\$ 18,491,802
Less sponsoring entity loan and Administrative RPTTF	577,726
Actual RPTTF distributed for 2015-16 after adjustment	17,914,076
Administrative Cap for 2016-17 per HSC section 34171 (b)	537,422
ROPS 16-17 Administrative RPTTF after Finance adjustments	575,862
<b>Administrative Cost Allowance in excess of the cap</b>	<b>\$ (38,440)</b>