DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

April 4, 2016

Ms. Sarah T. Schlenk, Agency Administrative Manager
City of Oakland
250 Frank H. Ogawa Plaza
Suite 3315
Oakland, CA 94612

Dear Ms. Schlenk:

Subject: 2016-17 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Oakland 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 26, 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 No. 6 – Claimed administrative costs exceed the allowance by $226,930. HSC section 34171 (b) (3) limits the fiscal year 2016-17 Administrative Cost Allowance (ACA) to three percent of actual distributed Redevelopment Property Tax Trust Fund (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 $1,794,454 for the fiscal year 2016-17. Although $2,021,384 is claimed for administrative cost, only $1,794,454 is available pursuant to the cap. Therefore, $226,930 of excess administrative cost is not allowed.

- Item No. 207 – 9451 MacArthur Blvd-Evelyn Rose Project in the total outstanding amount of $517,500 is not approved. Finance continues to deny this item. This item was denied during the January through June 2013 (ROPS III) period because Low and Moderate Income Housing Fund (LMIHF) deferral payments were not eligible for repayment. The Agency now contends the item is not a LMIHF deferral payment, and explained repayment to LMIHF is required because the former redevelopment agency (RDA) expended LMIHF funds on an affordable housing project located at 9451 MacArthur Boulevard, which was never completed. The RDA ultimately sold the property to another developer in 2002 for development of non-affordable housing. The Agency contends that due to the removal of the affordable housing covenant tied to the property, the Agency is required to pay back LMIHF funds used. The Agency has not provided sufficient documentation to support requirement to repay the LMIHF. Therefore, the requested RPTTF in the amount of $517,500 is not approved.

- Item No. 370 – Low and Moderate Income Housing Project management cost in amount of $1,620,828 is partially approved. The Agency provided a breakdown of how the total requested amount was allocated to housing projects listed on ROPS 16-17. Of the requested amount, a total of $734,850 was related to the Oak to 9th Project (Brooklyn Basin) under Item No. 423. As noted in the bullet below, Item No. 423 is not an enforceable obligation. Therefore, the related project development costs are also not an enforceable obligation of the Agency. As a result, of the requested $1,620,828, the amount of $734,850 is not eligible for RPTTF funding.

- Item No. 423 – Oak to 9th Project (Brooklyn Basin) is not an enforceable obligation of the Agency. The Cooperation Agreement dated August 24, 2006 between the former RDA and the Oak to Ninth Community Benefits Coalition did not require the RDA to provide additional funding beyond the enforceable obligation to purchase the Affordable Housing Parcels pursuant to the Development Agreement dated August 24, 2006 between the RDA and Oakland Harbor Partners, LLC. The Agency fulfilled its only enforceable obligation when it acquired the parcels during the July 1, 2014 through December 30, 2014 ROPS period under Item No. 422 using 2011 housing bond proceeds. Therefore, the development of affordable housing units is not an enforceable obligation of the Agency as defined in HSC section 34171 (d). As such, the additional funding requested in the amount of $4,000,000 in RPTTF is not approved.

We note that the Agency is requesting re-authorization to use $2,545,000 in excess bond proceeds, which were approved on a previous ROPS. The Agency received a Finding of Completion on May 29, 2013 and is allowed to expend bond proceeds derived from bonds issued prior to January 1, 2011 (pre-2011 bond proceeds) and housing bonds issued prior to June 28, 2011 in a manner consistent with the bond covenants. Such expenditures constitute the creation of an "excess bond proceeds obligation" payable from available excess bond proceeds. Additionally, during ROPS 15-16B, Agency staff acknowledged the Agency's use of bond proceeds was pursuant to recent Senate Bill 107 changes. As such, Finance approved bond funding for pre-development costs of the affordable housing units in accordance with HSC section 34176 (g), not because the item was an enforceable obligation. Finance is re-authorizing the Agency's request to use $2,545,000 in excess housing bond proceeds in accordance with HSC section 34176 (g), as the funds may not have been expended.

Additionally, Finance notes the Agency was authorized to transfer approximately $96,000,000 to the City of Oakland (City) pursuant to a bond expenditure agreement. To the extent there are excess pre-2011 bond proceeds and/or 2011 housing bond proceeds, the City and/or Agency may choose to use such proceeds to fund Item No. 423; and if necessary, repurpose available excess bond proceeds for the Oak to 9th Project. Should the Agency desire to increase the amount of excess bond proceeds for Item No. 423, a Meet and Confer should be requested to obtain authorization to expend additional excess bond proceeds.

Finally, our approval is specifically limited to the use of excess pre-2011 bond proceeds pursuant to HSC section 34191.4 (c) (1) and excess housing bond proceeds pursuant to HSC section 34176 (g). Such approval should not be construed as approval of the project itself as an enforceable obligation. Therefore, we have changed the Obligation Type from "OPA/DDA/Construction" to "Bond Funded Project – Housing".