



April 13, 2016

Ms. Lisa Strong, Management Services Director
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Dear Ms. Strong:

Subject: 2016-17 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Fontana Successor Agency (Agency) submitted an annual 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 February 1, 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. 51 – Ten-Ninety Owner Participation Agreement (OPA) in the amount of \$12,500,000 requested for ROPS 16-17 and total outstanding obligation of \$200 million is not allowed. Finance continues to deny this item. In 1982 the former redevelopment agency (RDA) entered into an OPA with Ten-Ninety, Ltd., the Participating Owner, relating to the Jurupa Hills Project Area. Under the OPA, the Participating Owner was to submit development costs incurred for certain infrastructure and other improvements on a quarterly basis to the RDA. It appears that these development costs were to be reimbursed from the Agency revenues, including the tax increment revenue generated in the Jurupa Hills Project Area, and certain fees and assessments.

Based on previous ROPS submitted by the Agency, the Agency asserted that the outstanding balance owed to the Participating Owner, when combined with the cumulated interest at the 15.5 percent interest rate specified in the OPA, indebts the Agency for approximately \$1.5 billion. However, on ROPS 15-16B the outstanding obligation has been decreased by \$1.3 billion to \$200 million. According to the Agency notes, the total outstanding obligation amount has been reduced to reflect the estimated amount that could be paid for the remaining life of the obligation based on an estimate of the growth in assessed value in the Jurupa Hills Project Area. The Agency suggests that by operation of law the total amount that can be paid to Ten-Ninety is approximately \$313 million; \$170 million of which the Agency alleges has already been paid.

However, this is contrary to the multiple representations by the Agency, including through its submitted ROPS, which previously stated its obligation to Ten-Ninety to be \$1.5 billion. Also, the OPA appears to be structured in a manner which prevents the

Agency's obligation to Ten-Ninety from being retired, and thus, allowing the OPA to exist in perpetuity. This is contrary to the wind down directives in Dissolution Law. Based on the Agency's past and present representations and the language in the OPA, it is unclear what the total outstanding obligation is for the OPA .

Furthermore, the Agency has not provided sufficient documents to Finance in order for Finance to confirm an outstanding obligation amount. Instead, the documents and explanations by the Agency further cloud the facts surrounding the OPA. For example, the Agency provided two separate schedules purporting to identify the obligation owed to Ten-Ninety, Ltd. One schedule titled, "Ten-Ninety, Ltd. Approved Development Costs - Cumulative" shows the former RDA incurring debt two years before the OPA was executed.

The second schedule titled "Summary of Ten-Ninety OPA Obligation", which displays quarterly development costs with total development costs in the amount of \$202,992,845, does not show debt being incurred until two years after the OPA was executed. Additionally, the Agency has not provided sufficient accounting records or other financial records to support the development costs incurred by, or payments made to, the Participating Owner that are identified in either schedule.

Also, it appears that the Participating Owner is still incurring development costs which are added to the outstanding balance despite Agency staff asserting the project was completed years ago. Therefore, Finance is unable to determine the total outstanding obligation amount or if a valid outstanding obligation amount remains.

Additionally, for multiple reasons, it does not appear that the OPA meets any definition of "enforceable obligation" as defined by HSC section 34171(d). Finance notes the alleged contribution of less than \$200 million towards construction of infrastructure projects by Ten-Ninety, Ltd., in exchange for the former RDA's alleged obligation that at one point was asserted to be \$1.5 billion, diverts all available property tax revenues from the project area to this obligation. Agency staff acknowledge this obligation will never be paid in full based on how the Agency currently structures its payments to Ten-Ninety, Ltd., therefore, this obligation appears contrary to public policy and raises questions about the validity of the OPA under Dissolution Law.

Consequently, this item is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding of \$12,500,000.

- Item No. 55 – Supplemental Educational Revenue Augmentation Fund repayment in the amount of \$11,655,872 for the January 1, 2017 through June 30, 2017 (ROPS B period) has been adjusted. HSC section 34191.4 (b) (3) (A) allows repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the taxing entities in the fiscal year 2012-13 base year.

According to the San Bernardino County Auditor-Controller's report, the ROPS residual pass-through amount distributed to the taxing entities for fiscal year 2012-13 and fiscal year 2015-16 are \$19,760,300 and \$37,707,494, respectively. Therefore, pursuant to the repayment formula, the maximum repayment amount authorized for the ROPS 16-17 period is \$8,973,597. Therefore, of the \$11,655,872 amount requested, Finance is only

approving \$8,973,597 and partially denying \$2,682,275 (\$11,655,872 - \$8,973,597). The Agency may be eligible for additional funding on subsequent ROPS.

Except for the items denied in whole or in part, 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/

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 Redevelopment Property Tax Trust Funds (RPTTF).

The Agency's maximum approved RPTTF distribution for the reporting period is \$44,477,213 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:

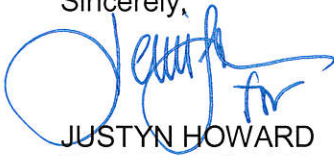
<http://www.dof.ca.gov/redevelopment/ROPS>

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 Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Ms. Dawn Brooks, Accounting Manager, City of Fontana
Ms. Linda Santillano, Property Tax Manager, San Bernardino 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)	\$ 22,374,606	\$ 36,153,650	\$ 58,528,256
Requested Administrative RPTTF	565,616	565,616	1,131,232
Total RPTTF requested for obligations on ROPS 16-17	22,940,222	36,719,266	\$ 59,659,488
Total RPTTF requested	22,374,606	36,153,650	58,528,256
<u>Denied Items</u>			
Item No. 51	(7,000,000)	(5,500,000)	(12,500,000)
Item No. 55	0	(2,682,275)	(2,682,275)
	<u>(7,000,000)</u>	<u>(8,182,275)</u>	<u>(15,182,275)</u>
Total RPTTF authorized	15,374,606	27,971,375	\$ 43,345,981
Total Administrative RPTTF authorized	565,616	565,616	\$ 1,131,232
Total RPTTF approved for distribution	15,940,222	28,536,991	\$ 44,477,213