DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
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May 11, 2012

Karan Reid, Chief Financial Officer/Treasurer
Administrative Services Department
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Dear Ms. Reid:

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the City of Emeryville Successor Agency submitted a Recognized Obligation Payment Schedule (ROPS) to the California Department of Finance (Finance) on April 26, 2012 for the period January through June, 2012. Finance staff contacted you for clarification of items listed in the ROPS.

HSC section 34171 (d) lists enforceable obligation (EO) characteristics. Based on a sample of line items reviewed and application of the law, the following do not qualify as EOs:

- Page 1, items 7 through 14 in the amount of $12.2 million. HSC section 34163(b) prohibits a redevelopment agency (RDA) from entering into a contract with any entity after June 27, 2011. These line items related to the acquisition of two properties, in which the original purchase and sale agreement did not identify the purchase amount, and section 8.1.7 (b) of the agreement stated that if closing did not occur by August 31, 2011 the agreement would automatically terminate. In November 2011, the agreement was amended to identify the purchase amounts and extended the closing date to November 2011.

- Page 5, item 23, in the amount of $21.2 million. A Memorandum of Understanding (MOU), executed in July 2011 was provided. The MOU is not a valid agreement; therefore, this item is not an EO.

- HSC section 34163(b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. It is our understanding that the following items do not have valid contracts executed for anticipated projects or project work.
    - Page 3, items 3 and 11, in the amount of $1.5 million
    - Page 6, item 6, in the amount of $1 million
    - Page 7, items 27 and 32, in the amount of $14.4 million

- Page 1, item 24 in the amount of $1 million. HSC section 34163 (e) prohibits the acquisition of real property by the exercising of an option to purchase, assume, transfer upon option, including the repurchase of developed property previously owned by the RDA.

- Page 3, item 7 in the amount of $3.2 million. The requirement to set aside 20 percent of RDA tax increment for low and moderate income housing purposes ended with the passing of the redevelopment dissolution legislation. HSC section 34177 (d) requires

that all unencumbered balances in the Low and Moderate Income Housing Fund be remitted to the county auditor controller for distribution to the taxing entities.

- Page 2, item 9 and page 3, item 15, in the amount of $978,041. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the RDA are not enforceable unless the loan agreements were entered into within the first two years of the date of the creation of the RDA. It is our understanding that the loans were not issued within the first two years of the RDA's establishment date of 1976.

As authorized by HSC section 34179 (h), Finance is returning your ROPS for your reconsideration. This action will cause the specific ROPS items noted above to be ineffective until Finance approval. Furthermore, items listed on future ROPS will be subject to review and may be denied as EOs.

If you believe we have reached this conclusion in error, please provide further evidence that the items questioned above meet the definition of an EO to the following email address:

Redevelopment_Administration@dof.ca.gov

Department of Finance may continue to review items on the ROPS in addition to those mentioned above and identify additional issues. We will provide separate notice if we are requesting further modifications to the ROPS. It is our intent to provide an approval notice with regard to each ROPS prior to the June 1 property tax distribution date.

Please direct inquiries to Chikako Takagi-Galamba, Supervisor or Cindie Lor, Lead Analyst at (916) 322-2985.

Sincerely,

Mark Hill

MARK HILL
Program Budget Manager

cc: Mr. Patrick D O'Keeffe, City Manager, City of Emeryville
Mr. Michael G. Biddle, City Attorney, City of Emeryville
Ms. Carol S. Orth, Division Chief, Tax Analysis, Alameda County Auditor/Controller