



Transmitted via e-mail

May 17, 2023

Stephanie Sikkema, Finance Director
City of West Covina
1444 West Garvey Avenue
West Covina, CA 91790

2023-24 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 4, 2023. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of West Covina Successor Agency (Agency) submitted an annual ROPS for the period July 1, 2023 through June 30, 2024 (ROPS 23-24) to Finance on January 30, 2023. 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 24, 2023.

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. 9 – Community Facilities District Tax Increment Pledge in the total outstanding amount of \$1,721,802. Finance continues to deny this item. Finance initially denied this item because the Owner Participation Agreement (OPA) provided pledged funds for the repayment of public financing bonds that were paid in full, leaving no amounts outstanding or pledged at this time. During the Meet and Confer, the Agency contended there is still an obligation owed under OPA section 4.4 (B) related to Minimum Special Tax for a five-year period commencing in 2021-22. However, it is our understanding that OPA section 4.4 (B) is not an obligation to pay but is the minimum property tax to be assessed to pay debt service. Because the repayment of the bonds is complete, the Agency no longer has an obligation under the OPA. Therefore, this item is no longer an enforceable obligation, and the requested amount of \$1,721,802 from the Redevelopment Property Tax Trust Fund (RPTTF) is not allowed.

- Item No. 11 – County deferral payments in the total outstanding amount of \$4,838,823. Finance continues to deny this item. This item was previously denied in our determination letters dated April 15, 2019, May 17, 2019, April 15, 2020, May 15, 2020, April 12, 2021, May 17, 2021, April 15, 2022, May 17, 2022, and April 4, 2023. It is our understanding this item is for deferred County pass-through payments. Pursuant to HSC section 34183 (a) (1), the County Auditor-Controller (CAC) shall make the required pass-through payments for any pass-through agreement between the former Redevelopment Agency (RDA) and a taxing entity entered into prior to January 1, 1994 that would be in force during that fiscal year, had the RDA existed at that time. This pass-through agreement between the former RDA, the City, and the County of Los Angeles, was entered into on June 19, 1990. Therefore, the CAC is responsible for determining amounts owed and making payments under this pass-through agreement. As such, it is not necessary to place this obligation on the ROPS, and the requested amount of \$4,838,823 from RPTTF is not allowed.
- Item Nos. 23 through 25 – City loan repayments in the total outstanding amount of \$21,844,242. Finance continues to deny these items. Finance initially denied these City loans in its Oversight Board (OB) Resolution No. OB-0045 determination letter dated March 9, 2016. In addition, these items were denied in our determination letters dated May 17, 2019, April 15, 2020, May 15, 2020, April 12, 2021, May 17, 2021, April 15, 2022, May 17, 2022, and April 4, 2023. Specifically, in February 1972, the RDA and the City entered into a Funding Agreement where the City made periodic advances through the budgeting appropriation process to the RDA for administrative, overhead, and capital improvement expenses. Under dissolution law, reimbursements for City personnel and use of City facilities are not considered a loan eligible for repayment. Therefore, the 1972 Funding Agreement is not an enforceable obligation, and the requested amounts of \$728,141 in RPTTF on each line totaling \$2,184,423 (\$728,141 x 3) are not allowed.
- Item No. 26 – Sales Tax Reimbursement in the total outstanding amount of \$7,050,992. Finance continues to deny this item. This item was previously denied in our determination letters dated April 10, 2017, May 17, 2017, April 7, 2018, May 17, 2018, April 15, 2019, May 17, 2019, April 15, 2020, May 15, 2020, April 12, 2021, May 17, 2021, and April 4, 2023. Finance denied this item because City loans for the sales and use tax revenue received by the RDA per the 2005 Sales Tax Reimbursement Agreement (Agreement) are not funds transferred from the City; therefore, they are not considered loans of moneys in accordance with HSC section 34191.4 (b) (2) (A). In a letter from the Agency's attorney, Jones & Mayer, dated November 18, 2016, the Agency contends the Agreement is an obligation consistent with HSC sections 34171 (d) (2) and 34191.4 and requested Finance to reconsider the denial of the Agreement.

HSC section 34171 (d) (2) states RDA agreements with the City that created the RDA are not enforceable unless issued within two years of the RDA's creation date; is an indebtedness obligation entered into before December 31, 2010 at the time of an indebtedness issuance, solely for the purpose of repaying the indebtedness; is an agreement relating to state highway infrastructure improvements; or is an agreement pursuant to loans or development obligations imposed by federal agencies. The 2005 Agreement was to reimburse the City for the sales taxes used to pay a 1989 bond debt issuance. Therefore, the 2005 Agreement was not made at the time the bonds were issued and does not meet any of the other criteria of an enforceable obligation pursuant to HSC section 34171 (d) (2).

HSC section 34191.4 (b) (2) (A) authorizes an OB to approve loans for money entered into between the former RDA and the city that created the former RDA in which the city loaned money to the former RDA to use for a lawful purpose, in which the former RDA was obligated to repay the City pursuant to a required repayment schedule. However, in this case, the RDA received the one percent sales and use tax revenue pursuant to RDA Ordinance No. 1 and pursuant to an agreement between the RDA and the Board of Equalization (BOE). The City was not a party to the BOE agreement. It is our continued understanding this is a reimbursement agreement, an agreement entered into outside of the issuance of an indebtedness obligation, and there was no actual loan of moneys from the City to the RDA. Therefore, the Agreement is not an enforceable obligation, and the requested amount of \$7,050,992 in RPTTF funding is not allowed.

- Item Nos. 50 and 51 – Unfunded Pension Liabilities and Retirement Benefits in the total outstanding amount of \$2,191,306. Finance continues to deny these items. These items were previously denied in our determination letters dated April 10, 2017, May 17, 2017, April 7, 2018, May 17, 2018, April 15, 2019, May 17, 2019, April 15, 2020, May 15, 2020, April 12, 2021, May 17, 2021, April 15, 2022, May 17, 2022, and April 4, 2023. It is our understanding that the contracts obligating the Agency for these costs are not in place. HSC section 34163 (b) prohibits the RDA from entering into a contract with any entity after June 27, 2011. Therefore, the requested amount totaling \$2,191,306 (\$1,073,575 + \$1,117,731) in RPTTF funding is not allowed.
- Item No. 76 – City Loan Agreement in the total outstanding amount of \$1,226,433. Finance continues to deny this item. This item was previously denied in our determination letters dated April 10, 2017, May 17, 2017, April 7, 2018, May 17, 2018, April 15, 2019, May 17, 2019, April 15, 2020, May 15, 2020, April 12, 2021, May 17, 2021, April 15, 2022, May 17, 2022, and April 4, 2023. Per Finance's OB-0030 and OB-0031 determination letter dated January 16, 2015, we continue to deny the City loan agreement to reimburse the City for litigation fees incurred during 2012 and claimed on ROPS Item Nos. 31 through 38, 73, and 101. The Agency did not provide any additional documentation to support this request. Therefore, the requested amount of \$1,226,433 in RPTTF funding is not allowed.

In addition, per Finance's letter dated April 4, 2023, we continue to make the following determinations not contested by the Agency during the Meet and Confer review:

- Item No. 147 – Disposition and Development Agreement in the total outstanding amount of \$142,000 is not allowed. This item is not an enforceable obligation and was inadvertently placed on the ROPS by the Agency and the Agency has requested Finance to retire this item. Therefore, the requested amount of \$142,000 in RPTTF funding is not allowed.
- The claimed administrative costs exceed the allowance by \$13,600. HSC section 34171 (b) (3) limits the fiscal year Administrative Cost Allowance (ACA) to three percent of actual RPTTF distributed in the preceding fiscal year or \$250,000, whichever is greater, not to exceed 50 percent of the RPTTF distributed in the preceding fiscal year. As a result, the Agency's maximum ACA is \$250,000 for the fiscal year 2023-24. Although \$263,600 is claimed for ACA, only \$250,000 is available pursuant to the cap. Therefore, as noted in the table below, \$13,600 in excess ACA is not allowed:

Administrative Cost Allowance (ACA) Calculation	
Actual RPTTF distributed for fiscal year 2022-23	\$2,584,850
Less distributed Administrative RPTTF	(98,000)
RPTTF distributed for 2022-23 after adjustments	\$2,486,850
ACA Cap for 2023-24 per HSC section 34171 (b)	\$250,000
ACA requested for 2023-24	263,600
ACA in Excess of the Cap	(\$13,600)

Pursuant to HSC section 34186, successor agencies are required to report differences between actual payments and past estimated obligations (prior period adjustments) for the July 1, 2020 through June 30, 2021 (ROPS 20-21) period. The ROPS 20-21 prior period adjustment (PPA) will offset the ROPS 23-24 RPTTF distribution. The amount of RPTTF authorized includes the PPA resulting from the CAC's review of the PPA form submitted by the Agency.

The Agency's maximum approved RPTTF distribution for the reporting period is \$2,583,344, as summarized in the Approved RPTTF Distribution table (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2023 through December 31, 2023 period (ROPS A period), and one distribution for the January 1, 2024 through June 30, 2024 period (ROPS B period), based on Finance's approved amounts. Since this determination is for the entire ROPS 23-24 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

This is our final determination regarding the obligations listed on the ROPS 23-24. This determination only applies to items when funding was requested for the 12-month period. If a determination by Finance in a previous ROPS is currently the subject of litigation, the item will continue to reflect the determination until the matter is resolved.

The ROPS 23-24 form submitted by the Agency and this determination letter will be posted on our website:

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

This determination is effective for the ROPS 23-24 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to Finance's review and may be adjusted even if not adjusted 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 Joshua Mortimer, Supervisor, or Jeremy Bunting, Staff, at (916) 322-2985.

Sincerely,

Original signed by Cheryl L. McCormick for:

JENNIFER WHITAKER
Program Budget Manager

cc: Paulina Morales, Assistant City Manager, City of West Covina
Linda Santillano, Property Tax Apportionment Division Chief, Los Angeles County
Cesar Hernandez, Countywide Oversight Board Representative

Approved RPTTF Distribution July 2023 through June 2024			
	ROPS A	ROPS B	Total
RPTTF Requested	\$ 19,719,570	\$ 2,638,697	\$ 22,358,267
Administrative RPTTF Requested	131,850	131,750	263,600
Total RPTTF Requested	19,851,420	2,770,447	22,621,867
RPTTF Requested	19,719,570	2,638,697	22,358,267
<u>Adjustment(s)</u>			
Item No. 9	(1,721,802)	0	(1,721,802)
Item No. 11	(4,838,823)	0	(4,838,823)
Item No. 23	(728,141)	0	(728,141)
Item No. 24	(728,141)	0	(728,141)
Item No. 25	(728,141)	0	(728,141)
Item No. 26	(7,050,992)	0	(7,050,992)
Item No. 50	(1,073,575)	0	(1,073,575)
Item No. 51	(1,117,731)	0	(1,117,731)
Item No. 76	(1,226,433)	0	(1,226,433)
Item No. 147	(71,000)	(71,000)	(142,000)
	(19,284,779)	(71,000)	(19,355,779)
RPTTF Authorized	434,791	2,567,697	3,002,488
Administrative RPTTF Requested	131,850	131,750	263,600
Excess Administrative Costs	(0)	(13,600)	(13,600)
Administrative RPTTF Authorized	131,850	118,150	250,000
ROPS 20-21 Prior Period Adjustment (PPA)	0	(669,144)	(669,144)
Total RPTTF Approved for Distribution	\$ 566,641	\$ 2,016,703	\$ 2,583,344