



Transmitted via e-mail

April 9, 2020

David Biggs, City Manager
City of Hercules
111 Civic Drive
Hercules, CA 94547

2020-21 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Hercules Successor Agency (Agency) submitted an annual Recognized Obligation Payment Schedule for the period of July 1, 2020 through June 30, 2021 (ROPS 20-21) to the California Department of Finance (Finance) on January 30, 2020. Finance has completed its review of the ROPS 20-21.

Based on a sample of line items reviewed and application of the law, Finance made the following determinations:

- Item No. 16 – Cooperation Agreement (Agreement) between the former Redevelopment Agency (RDA) and the City of Hercules (City) in the total outstanding obligation amount of \$50,496,029 is not allowed. Finance continues to deny this item.

Consistent with the determination of this item in ROPS 17-18, the Agreement does not meet the requirements of an enforceable obligation pursuant to HSC section 34171 (d) (2). HSC section 34171 (d) (2) states that agreements between the city or county or city and county that created the RDA and the RDA are not enforceable, unless it is a loan agreement entered into within two years of the RDA's creation date (or meets another exception applicable in this instance). The Agency claims that since the Agreement was executed within two years of creation of the former RDA, the Agreement fits the loan exception in HSC section 34171 (d) (2). While the Agreement seems to have been entered within two years of the RDA's existence, the Agreement is not a loan agreement. Specifically, while the Agreement may contemplate future loans, the Agreement, in and of itself, did not create a loan. Further, the Agency was unable to provide any facts to support the existence of a loan, such as the transfer of money or evidence of an outstanding balance. In addition, since the Agency did not receive a Finding of Completion pursuant to HSC section 34179.7 (a), the Agreement cannot be considered for review pursuant to the loan provisions under HSC section 34191.4 (b). Finally, this item is currently the subject of litigation and will continue to be denied until the matter is resolved. Therefore, the requested amount of \$50,496,029 from Redevelopment Property Tax Trust Fund (RPTTF) funding is not allowed.

- The administrative costs claimed are within the fiscal year administrative cap pursuant to HSC section 34171 (b) (3). However, Finance notes the Oversight Board (OB) has approved an amount that appears excessive, given the number and nature of the obligations listed on the ROPS. HSC section 34179 (i) requires the OB to exercise a fiduciary duty to the taxing entities. Therefore, Finance encourages the OB to apply adequate oversight when evaluating the administrative resources necessary to successfully wind-down the Agency.

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, 2017 through June 30, 2018 (ROPS 17-18) period. Reported differences in RPTTF are used to offset current RPTTF distributions. The County Auditor-Controller's review of the prior period adjustment form submitted by the Agency resulted in no prior period adjustment.

The Agency's maximum approved RPTTF distribution for the reporting period is \$11,516,197, as summarized in the Approved RPTTF Distribution table (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2020 through December 31, 2020 period (ROPS A period), and one distribution for the January 1, 2021 through June 30, 2021 period (ROPS B period), based on Finance's approved amounts. Since this determination is for the entire ROPS 20-21 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

Except for the item adjusted, Finance is not objecting to the remaining items listed on the ROPS 20-21. If the Agency disagrees with our determination with respect to any items on the ROPS 20-21, except items which are the subject of litigation disputing our previous or related determinations, the Agency 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 on our website:

http://dof.ca.gov/Programs/Redevelopment/Meet_And_Confer/

The Agency must use the RAD App to complete and submit its Meet and Confer request form.

Absent a Meet and Confer, this is our final determination regarding the obligations listed on the ROPS 20-21. This determination only applies to items when funding was requested for the 12-month period. If a denial by Finance in a previous ROPS is currently the subject of litigation, the item will continue to be deemed denied until the matter is resolved.

The ROPS 20-21 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 20-21 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 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 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 Anna Kyumba, Supervisor, or Daisy Rose, Staff, at (916) 322-2985.

Sincerely,

Original signed by Cheryl L. McCormick for:

JENNIFER WHITAKER
Program Budget Manager

cc: Edwin Gato, Finance Director, City of Hercules
Bob Campbell, Auditor-Controller, Contra Costa County

Attachment

Approved RPTTF Distribution July 2020 through June 2021			
	ROPS A	ROPS B	ROPS 20-21 Total
RPTTF Requested	\$ 57,521,589	\$ 4,240,637	\$ 61,762,226
Administrative RPTTF Requested	125,000	125,000	250,000
Total RPTTF Requested	57,646,589	4,365,637	62,012,226
RPTTF Requested	57,521,589	4,240,637	61,762,226
<u>Adjustment</u>			
Item No. 16	(50,496,029)	0	(50,496,029)
RPTTF Authorized	7,025,560	4,240,637	11,266,197
Administrative RPTTF Authorized	125,000	125,000	250,000
Total RPTTF Approved for Distribution	\$ 7,150,560	\$ 4,365,637	\$ 11,516,197