



Transmitted via e-mail

May 15, 2020

Robbeyn Bird, Finance Director
City of West Covina
1444 West Garvey Avenue
West Covina, CA 91790

2020-21 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 15, 2020. 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 of July 1, 2020 through June 30, 2021 (ROPS 20-21) to Finance on January 28, 2020. 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 28, 2020.

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:

- Items Nos. 11, 142, and 143 – County Deferral Payments and repayments to the City of West Covina (City) totaling \$4,838,823. These items were previously denied in our determination letters dated April 15, 2019, May 17, 2019, and April 15, 2020; Finance continues to deny these items. It is our understanding Item No. 11 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.

In addition, Finance previously denied Item Nos. 142 and 143 for County Deferral payments made by the City during the ROPS 17-18 and 18-19 periods because pursuant to HSC section 34173 (h) (1), the City may loan the Agency funds to the extent the Agency did not receive its entire Redevelopment Property Tax Trust Fund (RPTTF) distribution as approved by Finance; however, the Agency received its entire RPTTF distribution for those periods. Though it was previously our understanding that Item Nos. 142 and 143 were duplicate obligations of Item No. 11, it is now our understanding that these items are each for separate and distinct payments made by the City for the pass-through payments for different time periods. However, Item Nos. 142 and 143 do not meet the definition of an enforceable obligation as defined in HSC section 34171 (d) (1). Therefore, the requested amount totaling \$4,838,823 (\$1,202,573 + \$1,880,270 + \$1,755,980) in RPTTF funding is not allowed. In addition, an agency or an oversight board (OB) shall not exercise the powers to restore funding for an enforceable obligation that was deleted or reduced by Finance.

- 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 OB Resolution No. OB-0045 determination letter dated March 9, 2016. In addition, these items were denied in our ROPS 19-20 Meet and Confer determination letter dated May 17, 2019. 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 would not be considered a loan eligible for repayment. Instead, an exchange of moneys is required. During the Meet and Confer, the Agency did not provide additional documentation to support the obligation as enforceable. Therefore, the 1972 Funding Agreement, as it stands, is not an enforceable obligation and the requested amount of \$728,142 for each line item, totaling \$2,184,426 is not eligible for RPTTF funding.
- Item No. 26 – Sales Tax Reimbursement in the total outstanding amount of \$7,050,992. 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, and April 15, 2020; Finance continues to deny this item. 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 34191.34 (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 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 does not meet any of these requirements as it was established to reimburse the City for the sales taxes used to pay a 1989 bond debt issuance. Therefore, the 2005 Agreement is not 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, and 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 that 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. During the Meet and Confer, Finance reviewed an additional agreement between the RDA and BOE; however, it did not further support the Agreement as a loan. Therefore, the Agreement is not an enforceable obligation pursuant to HSC section 34191.4 (b) (2) (A), and the requested amount of \$611,890 in RPTTF funding is not allowed.

- Item No. 28 – 1996 CFD Refunding Bonds in the amount of \$4,384,650. Finance no longer completely reclassifies the total amount to Other Funds. It is our understanding the bond debt service payment may be payable from RPTTF only if there are insufficient Other Funds available. During the Meet and Confer, the Agency was able to demonstrate amounts available totaling \$2,755,102 to fund this line item, which was not enough to make the required bond payments. The Agency contends the amounts available should be reduced for ongoing bond costs and a tax sharing agreement; however, validity of these costs was not confirmed. To the extent the Agency can provide suitable documentation, such as a contract for bond costs and the tax sharing agreement showing required payment as it relates to the refunding bond, the Agency may be able to obtain additional funding on a future ROPS. As such, \$2,755,102 has been reclassified to Other Funds and \$1,629,548 in RPTTF is approved.
- Item No. 30 – Owner Participation Agreement (OPA) - CFD in the amount of \$450,000 is not eligible for RPTTF funding. While the Agency originally requested \$450,000, during the Meet and Confer review, the Agency lowered the requested amount to \$215,835 to align with more current estimates. Therefore, the requested amount of \$450,000 has been reduced by \$234,165 to \$215,835.

After further review of the OPA, it is our understanding this component of the OPA obligation is only payable from Other Funds, originating from sales and use tax generated by the shopping center site. The Agency contends the obligation is for Agency-issued bonds; however, the tax increment pledge used to pay the Public Financing debt service is funded from Item No. 9 on ROPS 20-21. Therefore, the adjusted request of \$215,835 in RPTTF has been reclassified to Other Funds.

- Item Nos. 50 and 51 – Unfunded Pension Liabilities and Retirement Benefits in the total outstanding amount of \$2,191,306. 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, and April 15, 2020. During the Meet and Confer, the Agency did not provide any new documentation. Finance continues to deny these items. It is our understanding contracts obligating the Agency for these costs are not in place. HSC section 34163 (b) prohibits a 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. 67 – Project administrative cost in the amount of \$32,000. Finance continues to partially approve this item in the amount of \$30,000. It is our understanding an Agreement between the Agency and Rincon Environmental, LLC states the Agency is obligated to pay an annual cost not to exceed \$30,000. During the Meet and Confer, the Agency did not provide any new documentation. Therefore, of the requested \$32,000, the excess \$2,000 is not eligible for RPTTF funding.
- Item No. 76 – City Loan Agreement in the total outstanding amount of \$1,226,433. 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, and April 15, 2020; Finance continues to deny this item. Per Finance's OB-0030 and OB-0031 determination letter dated January 16, 2015, we continued to deny a City loan agreement to reimburse the City for litigation fees incurred during 2012 and claimed as ROPS Item Nos. 31 through 38, 73, and 101. The Agency provided additional documentation in the form of an engagement letter between Squire and Sanders and the RDA and an agreement for legal services between Blank Rome and the City; however, the documentation did not support the item as an obligation of the Agency. Therefore, the requested amount of \$1,226,433 in RPTTF funding is not allowed.

- The claimed administrative costs exceed the allowance by \$155,947. 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 fiscal year 2020-21. Although \$340,000 is claimed for ACA, Item Nos. 54 and 89 are considered an administrative cost and should be counted toward the cap. During the Meet and Confer review, the Agency contended Item No. 89 should not be counted towards the ACA cap; however, no new documentation was provided to support Item No. 89 as a direct project cost and continues to be reclassified to Administrative RPTTF. Therefore, as noted in the table below, \$155,947 in excess ACA is not allowed:

Administrative Cost Allowance (ACA) Calculation	
Actual RPTTF distributed for fiscal year 2019-20	\$9,416,800
Less distributed Administrative RPTTF	(250,000)
Less sponsoring entity loan repayments	(2,696,738)
RPTTF distributed for 2019-20 after adjustments	\$6,470,062
ACA Cap for 2020-21 per HSC section 34171 (b)	\$250,000
ACA requested for 2020-21	340,000
Plus amount reclassified to ACA	65,947
Total ACA	\$405,947
ACA in Excess of the Cap	\$155,947

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 amount of RPTTF authorized includes the prior period adjustment (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 \$9,991,439, 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.

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 Todd Vermillion, Supervisor, or Daisy Rose, Staff, at (916) 322-2985.

Sincerely,

Original signed by Cheryl L. McCormick for:

JENNIFER WHITAKER
Program Budget Manager

cc: Paulina Morales, Project Manager, City of West Covina
Kristina Burns, Manager, Department of Auditor-Controller, Los Angeles County

Approved RPTTF Distribution July 2020 through June 2021			
	ROPS A	ROPS B	ROPS 20-21 Total
RPTTF Requested	\$ 19,415,527	\$ 5,350,405	\$ 24,765,932
Administrative RPTTF Requested	170,000	170,000	340,000
Total RPTTF Requested	19,585,527	5,520,405	25,105,932
RPTTF Requested	19,415,527	5,350,405	24,765,932
<u>Adjustment(s)</u>			
Item Nos. 11, 142, and 143	(4,838,823)	0	(4,838,823)
Item Nos. 23, 24, and 25	(2,184,426)	0	(2,184,426)
Item No. 26	(611,890)	0	(611,890)
Item No. 28	(2,755,102)	0	(2,755,102)
Item No. 30	(450,000)	0	(450,000)
Item Nos. 50 and 51	(2,191,306)	0	(2,191,306)
Item No. 54	(15,000)	(15,000)	(30,000)
Item No. 67	(1,000)	(1,000)	(2,000)
Item No. 76	(1,226,433)	0	(1,226,433)
Item No. 89	(17,974)	(17,973)	(35,947)
	(14,291,954)	(33,973)	(14,325,927)
RPTTF Authorized	5,123,573	5,316,432	10,440,005
Administrative RPTTF Requested	170,000	170,000	340,000
<u>Adjustment(s)</u>			
Item No. 54	15,000	15,000	30,000
Item No. 89	17,974	17,973	35,947
	32,974	32,973	65,947
Adjusted Administrative RPTTF	202,974	202,973	405,947
Excess Administrative Costs	0	(155,947)	(155,947)
Administrative RPTTF Authorized	202,974	47,026	250,000
ROPS 17-18 prior period adjustment (PPA)	(698,566)	0	(698,566)
Total RPTTF Approved for Distribution	\$ 4,627,981	\$ 5,363,458	\$ 9,991,439