



Transmitted via e-mail

May 17, 2021

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

2021-22 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 12, 2021. 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, 2021 through June 30, 2022 (ROPS 21-22) to Finance on January 28, 2021. 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 21, 2021.

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. 10 – Costal Sage and Scrub - Community Finance District (CFD) in the total requested amount of \$80,000. Finance continues to partially approve this item. Based on a review of the special tax assessment invoices previously provided by the Agency, a total of \$2,660 is required for Agency owned properties for the ROPS 21-22 period. During the Meet and Confer, the Agency stated it would no longer dispute this item. Therefore, of the \$80,000 requested, \$77,340 is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item Nos. 11, 145, and 146 – County Deferral Payments and repayments to the City of West Covina (City) totaling \$4,838,823. Finance continues to deny these items as additional documentation was not provided during the Meet and Confer. Item Nos. 145 and 146 were previously identified as Item Nos. 142 and 143, respectively, on the ROPS 20-21 and were denied in our determination letters dated April 15, 2019, May 17, 2019, April 15, 2020, and May 15, 2020.

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. 145 and 146, 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 RPTTF distribution as approved by Finance; however, the Agency received its entire RPTTF distribution for those periods. Further, Item Nos. 145 and 146 were determined to be duplicate obligations of Item No. 11 and were retired. Therefore, the requested amount totaling \$4,838,823 (\$1,202,573 + \$1,880,270 + \$1,755,980) in RPTTF funding is not allowed. Further, 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 No. 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 determination letters dated May 17, 2019, April 15, 2020, May 15, 2020, and April 12, 2021. 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. During the Meet and Confer, the Agency did not provide additional documentation; therefore, the 1972 Funding Agreement is not an enforceable obligation and the requested amount of \$728,142 in RPTTF for each line item, totaling \$2,184,426 (\$728,142 x 3) is not allowed.
- Item No. 26 – Sales Tax Reimbursement in the total outstanding amount of \$611,890. 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, and April 12, 2021; 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) (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 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 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, additional documentation was not provided; therefore, the Agreement is not an enforceable obligation, and the requested amount of \$611,890 in RPTTF funding is not allowed.

- Item No. 28 – 1996 CFD Refunding Bonds in the amount of \$4,470,950. 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 \$3,994,887 to fund this line item, which was not sufficient to make the required bond payments. The Agency contends the amounts available should be reduced for ongoing bond costs, arbitrage payment, and a tax sharing agreement; however, validity of these costs was not supported. 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, \$3,994,887 has been reclassified to Other Funds and \$476,063 in RPTTF is approved.
- Item No. 30 – Owner Participation Agreement - CFD in the amount of \$450,000. Finance continues to reclassify this amount to Other Funds. Finance previously reclassified this amount to Other Funds as it was 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. During the Meet and Confer, additional documentation was not provided; as such, the \$450,000 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, April 15, 2020, May 15, 2020, and April 12, 2021. During the Meet and Confer, the Agency did not provide additional 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. 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, and April 12, 2021. Per Finance's OB-0030 and OB-0031 determination letter dated January 16, 2015, we continued to deny the 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. During the Meet and Confer, the Agency did not provide additional documentation; therefore, the requested amount of \$1,226,433 in RPTTF funding is not allowed.
- Item No. 106 – Financing Agreement in the total outstanding amount of \$820,185. Finance continues to partially deny this item. Pursuant to HSC section 34191.4 (b) (3), interest on the remaining outstanding principal amount of the loan shall be recalculated from the date of origination of the loan on a quarterly basis, at a simple interest rate of three percent and repayments shall be applied first to principal, and second to interest. After recalculating interest, the outstanding loan balance reported on the Agency's ROPS Detail Form was reduced by \$436,606 to \$383,579. As a result, the Agency's current ROPS request of \$820,185 was reduced to \$383,579 to only allow the funds necessary to fulfill this obligation. During the Meet and Confer, the Agency stated it would no longer dispute this item; therefore, \$436,606 is not eligible for RPTTF funding.
- The claimed administrative costs exceed the allowance by \$83,947. HSC section 34171 (b) 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 2021-22. Although \$0 is claimed for ACA, Item Nos. 12, 54, and 89, totaling \$333,947 (\$250,000 + \$48,000 + \$35,947) are considered administrative costs 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 it continues to be reclassified to Administrative RPTTF. Therefore, as noted in the table below, \$83,947 in excess ACA is not allowed:

Administrative Cost Allowance (ACA) Calculation	
Actual RPTTF distributed for fiscal year 2020-21	\$9,991,439
Less distributed Administrative RPTTF	(250,000)
Less sponsoring entity loan repayments	(2,742,187)
RPTTF distributed for 2020-21 after adjustments	\$6,999,252
ACA Cap for 2021-22 per HSC section 34171 (b)	\$250,000
ACA requested for 2021-22	0
Plus amount reclassified to ACA	333,947
Total ACA requested for 2021-22	\$333,947
ACA in Excess of the Cap	(\$83,947)

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, 2018 through June 30, 2019 (ROPS 18-19) period. The ROPS 18-19 prior period adjustment (PPA) will offset the ROPS 21-22 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 \$6,838,963, as summarized in the Approved RPTTF Distribution table (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2021 through December 31, 2021 period (ROPS A period), and one distribution for the January 1, 2022 through June 30, 2022 period (ROPS B period), based on Finance's approved amounts. Since this determination is for the entire ROPS 21-22 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 21-22. 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 21-22 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 21-22 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 (j). 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 Brian Dunham, Staff, at (916) 322-2985.

Sincerely,

Original signed by Cheryl L. McCormick for:

JENNIFER WHITAKER
Program Budget Manager

cc: Paulina Morales, Economic Development and Housing Manager,
City of West Covina
Kristina Burns, Manager, Department of Auditor-Controller, Los Angeles County

Approved RPTTF Distribution July 2021 through June 2022			
	ROPS A	ROPS B	Total
RPTTF Requested	\$ 17,648,724	\$ 5,549,629	\$ 23,198,353
Administrative RPTTF Requested	0	0	0
Total RPTTF Requested	17,648,724	5,549,629	23,198,353
RPTTF Requested	17,648,724	5,549,629	23,198,353
<u>Adjustment(s)</u>			
Item No. 10	(38,670)	(38,670)	(77,340)
Item No. 11, 145, and 146	(4,838,823)	0	(4,838,823)
Item No. 12	(125,000)	(125,000)	(250,000)
Item No. 23, 24, and 25	(2,184,426)	0	(2,184,426)
Item No. 26	(611,890)	0	(611,890)
Item No. 28	(3,994,877)	0	(3,994,877)
Item No. 30	(450,000)	0	(450,000)
Item No. 50 and 51	(2,191,306)	0	(2,191,306)
Item No. 54	(24,000)	(24,000)	(48,000)
Item No. 76	(1,226,433)	0	(1,226,433)
Item No. 89	(17,974)	(17,973)	(35,947)
Item No. 106	(436,606)	0	(436,606)
	(16,140,015)	(205,643)	(16,345,658)
RPTTF Authorized	1,508,709	5,343,986	6,852,695
Administrative RPTTF Requested	0	0	0
<u>Adjustment(s)</u>			
Item No. 12, 54 and 89	166,974	166,973	333,947
Adjusted Administrative RPTTF	166,974	166,973	333,947
Excess Administrative Costs	0	(83,947)	(83,947)
Administrative RPTTF Authorized	166,974	83,026	250,000
ROPS 18-19 prior period adjustment (PPA)	(263,732)	0	(263,732)
Total RPTTF Approved for Distribution	\$ 1,411,951	\$ 5,427,012	\$ 6,838,963

ICC: Dunham, Vermillion, Takagi-Galamba, McAllister, McCormick, Whitaker

Final Path: J:\Audits and Review\ROPS 21-22 Letters PDF

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