



Transmitted via e-mail

May 15, 2020

John Raymond, Director of Community Development
City of Carson
701 East Carson Street
Carson, CA 90745

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 10, 2020. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Carson 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 29, 2020. The Agency requested a Meet and Confer on one of the determinations made by Finance. The Meet and Confer was held on April 15, 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 determination being disputed:

- Item No. 178 – Tax Allocation Bonds 2020 (TABs 2020) in the total amount of \$8,500,000 funded with Redevelopment Property Tax Trust Fund (RPTTF) is not allowed. Finance continues to deny this item.

During the Meet and Confer, the Agency contended that the responsibility for remediation costs related to the 157-acre property falls on the Agency because of a "release of liability" provision in the 2015 Settlement Agreement between the City, the Carson Reclamation Authority (CRA) and the Successor Agency for the benefit of CM Marketplace. Further, while the Agency contends that the release provision creates liability with all three of the entities, that since they see the Agency as the only entity with a funding source, the entire liability falls to the Agency. The Agency further contends that a new claim filed by CAM-Carson (a developer of the parcel) related to a breach of contract between CAM-Carson and CRA also creates liability for the Agency, wherein CAM-Carson argues the Agency is an alter ego of CRA and all of CRA's obligations under a separate contract with CAM-Carson are now the obligations of the Agency.

While the Agency is one of three parties in the Settlement Agreement agreeing to release CM Marketplace from CM Marketplace's obligations, a release of liability of CM Marketplace does not in and of itself trigger a liability of any entity. To the extent there is any ambiguity whether the release provision can create liability to do the work the CM Marketplace developer was released from (there is not), the ambiguity is erased by CRA's affirmative contractual agreement to do all of the work CM Marketplace was required to do. (See sections 4 and 8 of the Settlement Agreement wherein CRA assumes all of CM Marketplace's obligations and specifically agrees to complete all of the remediation work.) Essentially, the Agency is arguing that the release provision should not only release CM Marketplace from its obligations, but that the release should serve to release CRA of its contractual obligations. Finance finds no support for the conclusion that the release provision creates an obligation of the Agency to pay for remediation costs.

Further, the existence of a claim filed against the City, the CRA and the Agency in and of itself creates no liability for the Agency. It is noted that the September 6, 2018 Conveyance Agreement (on which the claim is based) requires CRA to solely bear responsibility for remediation work, which is consistent with CRA's obligations under the Settlement Agreement.

As noted in Finance's determination letter dated April 10, 2020, upon the execution of the Settlement Agreement, the only remaining obligation of the Agency was the issuance of bonds to net \$50.5 million in bond proceeds to be transferred to the CRA. Upon the completion of this obligation in 2015, the Agency's obligations under the Settlement Agreement ceased. Nothing raised in the Meet and Confer process supports any different conclusion.

In addition to the above conclusions, in order for the Agency to be authorized to issue bonds as listed in Item No. 178, there must be an enforceable obligation specifically requiring the Agency to make payments, which includes an irrevocable pledge of property tax increment, and which requires the issuance of bonds. (See HSC section 34177.5 (a) (4)). The Agency lists the 2015 Settlement Agreement and the 2006 Owner Participation Agreement, as amended, as support for this line item. However, as outlined above, neither agreement supports a conclusion that the Agency is obligated to pay for any such costs or to issue bonds beyond what the Agency has previously issued.

Furthermore, even if the Agency had an obligation authorizing the issuance of bonds (it does not), HSC section 34177.5 (f) requires the Oversight Board's approval. The approval requirement for the issuance of bonds is a separate requirement from the Oversight Board's approval of the ROPs. Since the Agency has requested and failed to receive Oversight Board approval for the issuance of these bonds, and because there is no obligation of the Agency to either fund any remediation costs nor issue debt for such costs, this line item is not approved and the requested amount of \$8,500,000 is not allowed.

In addition, per Finance's letter dated April 10, 2020, we continue to make the following determinations not contested by the Agency during the Meet and Confer review:

- Item No. 35 - Reimburse Remediation in the requested amount of \$7,323,151 in Other Funds is denied. Through prior ROPS reviews, Finance has approved the funds necessary to satisfy this obligation; and the Agency's August 22, 2019 memo to Finance indicates all required payments to the developer have been made. It is our understanding the Agency is requesting Other Funds for this obligation to correct an accounting error made in the prior period adjustment (PPA) process from the ROPS 16-17 period. However, requesting funds on the ROPS to correct an accounting error is not an enforceable obligation as defined by HSC section 34171. Although the Agency's reported cash balances indicate a June 30, 2018 balance of \$7,323,151 in Other Funds, the Agency claims these funds are not actually available and are the result of the accounting error. Therefore, Finance will not require the Agency to use these funds prior to requesting Redevelopment Property Tax Trust Fund (RPTTF) funding.
- Item No. 72 – Disposition and Development Agreement (DDA) related to Avalon Courtyard in the amount of \$234,818 is partially allowed. It is our understanding, pursuant to the obligation payment schedule, only \$160,525 is due during the ROPS 20-21 period. Therefore, of the requested \$234,818, the excess \$74,293 is not eligible for RPTTF funding.
- Item No. 73 – DDA related to Carson Terraces in the amount of \$109,826 is partially allowed. It is our understanding, pursuant to the obligation payment schedule, only \$73,320 is due during the ROPS 20-21 period. Therefore, of the requested \$109,826, the excess \$36,506 is not eligible for RPTTF funding.

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 PPA resulting from the County Auditor-Controller's (CAC) review of the PPA form submitted by the Agency, as adjusted by Finance. Specifically, based on additional information provided by the Agency, Finance made adjustments to the PPA form to accurately reflect actual expenditures for Item Nos. 72 and 73 in the amount of \$74,923 and \$36,506, respectively, totaling \$111,429 which were inadvertently omitted from the ROPS 17-18 PPA form. With the Agency's concurrence, Finance reduced the CAC's ROPS 17-18 PPA amount by \$111,429, from \$622,792 to \$511,363 as noted below:

Item No.	Item Name	Available RPTTF	CAC Reported Actual RPTTF	Finance Adjusted Actual RPTTF	Actual RPTTF Difference
72	DDA Avalon Courtyard	\$160,524	\$73,869	\$148,792	\$74,923
73	DDA Carson Terraces	\$73,320	\$36,385	\$72,891	\$36,506
	Total	\$233,844	\$110,254	\$221,683	\$111,429

The Agency's maximum approved RPTTF distribution for the reporting period is \$19,749,334, 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 Thong Thao, Staff, at (916) 322-2985.

Sincerely,

Original signed by Cheryl L. McCormick for:

JENNIFER WHITAKER
Program Budget Manager

cc: Diane Hadland, Consultant, City of Carson
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	\$ 8,021,999	\$ 20,281,997	\$ 28,303,996
Administrative RPTTF Requested	283,750	283,750	567,500
Total RPTTF Requested	8,305,749	20,565,747	28,871,496
RPTTF Requested	8,021,999	20,281,997	28,303,996
<u>Adjustment(s)</u>			
Item No. 72	(74,293)	0	(74,293)
Item No. 73	(36,506)	0	(36,506)
Item No. 178	0	(8,500,000)	(8,500,000)
	(110,799)	(8,500,000)	(8,610,799)
RPTTF Authorized	7,911,200	11,781,997	19,693,197
Administrative RPTTF Authorized	283,750	283,750	567,500
ROPS 17-18 prior period adjustment (PPA)	(511,363)	0	(511,363)
Total RPTTF Approved for Distribution	\$ 7,683,587	\$ 12,065,747	\$ 19,749,334