



December 17, 2015

Ms. Christa Buhagiar, Finance Director
City of West Covina
1444 West Garvey Avenue
West Covina, CA 91790

Dear Ms. Buhagiar :

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 9, 2015. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of West Covina Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16B) to Finance on September 30, 2015, for the period of January 1 through June 30, 2016. Finance issued a ROPS determination letter on November 9, 2015. Subsequently, the Agency requested a Meet and Confer session on one or more of the determinations made by Finance. The Meet and Confer session was held on November 19, 2015.

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 Nos. 6 and 7 – SERAF Housing Loan Repayments totaling \$4,177,541. Finance approved the requested amount of \$560,000 for the ROPS 15-16B period as the amount requested did not exceed the Maximum Repayment Amount. During the meet and confer, the Agency requested an additional amount of \$489,255. This request is not allowed. The Agency contends that it is entitled to this amount based on the calculation of the maximum repayment amount for fiscal year 2014-15. However, HSC section 34191.4 (b) (3) (A) only allows repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the taxing entities in the fiscal year 2012-13 base year. We note that the oversight board has the discretion to approve a lesser amount and the amounts approved for fiscal year 2014-15 reflect the amounts approved by the oversight board for that period. Therefore, the Agency's request to increase these items for the ROPS 15-16B period is not allowed.
- Item Nos. 23 through 26 – City Loans with unknown outstanding balances. No amounts were requested for these items on the ROPS. During the meet and confer, the Agency requested approval of these items as the Agency anticipates receiving a Finding of Completion by December 31, 2015. This request is not allowed. Finance issued a Finding of Completion to the Agency on December 16, 2015. Therefore, the Agency is permitted to place loan agreements between the former redevelopment agency and

sponsoring entity on Recognized Obligation Payment Schedules, as enforceable obligations, provided the oversight board makes a finding the loans were for legitimate redevelopment purposes, per HSC section 34191.4 (b) (1). Loan repayments will be governed by criteria in HSC section 34191.4 (b). At the time of our review, the oversight board had not made such a finding. Therefore, these items are not enforceable obligations and are not eligible for funding from the Redevelopment Property Tax Trust Fund (RPTTF) at this time.

- Item No. 70 – Litigation fees in the amount of \$5,000. Finance continues to deny this item. Based on information provided by the Agency, these are costs the agency anticipates may be needed to recover funds awarded through the settlement agreement related to the Hassen Imports Partnership (HIP) and West Covina Motors, Inc. (WCM) bankruptcy case. However, the Agency did not provide support that the settlement would not be paid and that these costs would likely be incurred. As such, this item is not eligible for RPTTF funding on this ROPS. To the extent the Agency provides support that these costs have been or will be incurred, the costs may be listed on future ROPS for review.
- Item No. 77 – Housing administrative cost allowance pursuant to AB 471 in the amount of \$150,000 continues to be denied. Finance continues to deny this item. Finance denied this item because pursuant to HSC section 34171 (p), the housing entity administrative cost allowance is applicable only in cases where the city, county, or city and county that authorized the creation of the redevelopment agency (RDA) elected to not assume the housing functions. Because the housing entity to the former redevelopment agency of the City of West Covina (City) is the City-formed Housing Authority (Authority), the Authority operates under the control of the City and is considered the City under Dissolution Law (ABx1 26 and AB 1484).

The Agency contends that the City elected not to retain the housing functions, but the Authority, as a separate legal entity from the City, did retain the housing functions pursuant to HSC section 34176 (b) and should therefore be eligible for the housing entity administrative allowance. However, pursuant to HSC section 34167.10 (a), the definition of “city” includes, but is not limited to, any reporting entity of the city for purposes of its comprehensive annual financial report (CAFR), any component unit of the city, or any entity controlled by the city or for which the city is financially responsible or accountable. HSC section 34167.10 (a) defines “city” for purposes of all of Dissolution Law, which includes HSC section 34171, as amended by AB 471, and HSC section 34176. The Authority is included in the City’s 2012 CAFR, which identifies the Authority as a component unit of the City and states that the City is financially accountable for the component units.

Although the Authority is a separate legal entity from the City, HSC section 34167.10 (c) states that it shall not be relevant that the entity is formed as a separate legal entity. It should also be noted that HSC section 34167.10 (c) goes on to state that “the provisions of this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part [Part 1.8] and Part 1.85...and any attempt to determine otherwise would thwart the intent of these two parts.” Therefore, based on our review, the City, by way of the Authority, elected to retain the housing functions pursuant to HSC section 34176 (a) and is not eligible for \$150,000 of housing successor administrative allowance requested for ROPS 15-16B.

- Item No. 80 – Litigation fees totaling \$38,800 are not allowed. Finance continues to deny this item. However, based on information provided by the Agency, Finance no longer asserts that Item 80 is duplicative of Item No. 72.

Based on documentation provided by the Agency, Item No. 80 is for legal services provided by California Eminent Domain Law Group for anticipated litigation pertaining to cases involving the California Department of Transportation. However, the Agency did not provide documentation that there is currently litigation. Since this item is not current ongoing litigation, it is not an enforceable obligation. To the extent litigation ensues, the Agency may be eligible for RPTTF on future ROPS.

- Item Nos. 92 through 100 – HdL Coren & Cone consulting services totaling \$83,240. Finance continues to reclassify these items as administrative costs at this time. The Agency contends that these items are enforceable obligations pursuant to HSC section 34171 (d) (1) (F). However, our review of the documentation provided by the Agency indicates that these items represent costs payable from all previous ROPS periods for property tax estimations and bond reporting. Property tax estimates are not required for the administration of the Agency during the dissolution process. Rather, the ROPS is based on actual amounts due, not funds available. To the extent the Agency wishes to continue these types of services, they may be paid from the administrative cost allowance.

However, we note that bond disclosure reporting may be considered an enforceable obligation. To the extent the Agency can support the portion of the amounts requested as bond disclosure costs, these items may be listed on future ROPS for consideration of payment from RPTTF.

- Item No. 101 – Loan agreement between the Agency and the City in the amount of \$870,365 is not allowed. Finance continues to deny this item. It is our understanding that this item represents amounts that were previously approved by Finance on ROPS III; however, upon completion of the Prior Period Adjustment (PPA) for the ROPS III period the County Auditor Controller (CAC) made an adjustment for the amounts listed because the Agency had paid these items in the ROPS I and II periods using Other Funds. Regardless, loans from the sponsoring entity are not eligible for RPTTF until the oversight board approves the loan and the oversight board action has been reviewed and approved by Finance. However, Finance denied OB Resolution No. OB-0030 and OB Resolution No. OB-0037 in our letters dated January 16, 2015 and November 2, 2015, respectively. Therefore, these items are not eligible for RPTTF funding on this ROPS.
- Item Nos. 103 and 104 – CFD Tax increment pledge for the period July through December 2014 (ROPS 14-15A) in the amount of \$739,500 and \$778,009, respectively. Finance no longer denies these items. During the meet and confer, the Agency provided additional information and documentation to support that payment of these amounts remain outstanding. Our review indicates that, through various ROPS periods, the Agency requested and was approved for these amounts. However, these amounts were never actually paid. Additionally, while the Agency listed these items as expended during various ROPS periods, the CAC took prior period adjustments of these amounts because they were not actually paid. Therefore, we have determined these items are enforceable obligations eligible for funding on this ROPS.

We note that the Agency will be required in future ROPS periods to provide supporting documentation including general ledger entries and proof payment for the amounts actually paid towards this obligation before additional amounts are allowed. The CAC may take a prior period adjustment pursuant to HSC section 34186 (a) if the amounts expended are not adequately supported.

- Claimed administrative costs exceed the allowance by \$325,468. HSC section 34171 (b) (2) limits fiscal year 2015-16 administrative expenses to three percent of distributed RPTTF in the preceding fiscal year or \$250,000, whichever is greater. As a result, the Agency is eligible for \$362,360 in administrative expenses. The CAC distributed \$250,000 administrative costs for the July through December 2015 period, thus leaving a balance of \$112,360 available for the January through June 2016 period. Although \$214,588 is claimed for administrative cost, Item Nos. 71 and 81 for litigation fees totaling \$140,000 and Item Nos. 92 through 100 for consulting services totaling \$83,240 are considered administrative expenses and should be counted toward the cap. Therefore, \$325,468 of excess administrative cost allowance is not allowed.

In addition, per Finance's letter dated November 9, 2015, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item No. 14 – Litigation fees in the amount of \$600,000 are not allowed. The Agency requests \$100,000 for the six-month period. In our April 13, 2015 Oversight Board (OB) Resolution No. OB-0035 determination letter; we approved the settlement agreement for the Hassen Imports Partnership (HIP) and West Covina Motors, Inc. (WCM) bankruptcy case. As such, no further litigation fees should be incurred. Further, no documentation was provided to support further legal costs will be needed for the bankruptcy case. Therefore, this item is not eligible for RPTTF funding on this ROPS.
- Item Nos. 17, 78, 79, 83, 84, 85, and 86 – Litigation fees totaling \$40,000 are not allowed. Litigation expenses not associated with challenging redevelopment dissolution statutes are generally considered an enforceable obligation outside the administrative cap. However, adequate documentation was not provided to show these expenditure requests are for on-going cases. To the extent the Agency can provide suitable documentation, such as status/court documents, previous litigation invoices, etc. the Agency may be able to obtain RPTTF in the future. Therefore, these items are not eligible for RPTTF funding on this ROPS.
- Item No. 28 – 1996 CFD Refunding Bonds in the amount of \$33,154,550 is not eligible for RPTTF funding. The Agency requests \$768,300 in RPTTF for the six-month period; however, it is our understanding the bond debt service payment may be payable from RPTTF only if there are insufficient Other Funds available. The Agency did not provide documentation to support the amounts claimed cannot be paid with Other Funds. To the extent the Agency can provide suitable documentation, such as calculations showing funding is needed and displaying insufficient Other Funds available, the Agency may be able to obtain RPTTF on future ROPS. As such, the \$768,300 in RPTTF has been reclassified to Other Funds.
- Item No. 46 – 1998 - 2006 Bonds Fees. The Agency requested to decrease the six-month funding request from \$195,020 to \$38,040. As such, the RPTTF requested has been reduced by \$156,980.

- Item Nos. 71 and 81 – Litigation costs totaling \$140,000 have been reclassified to the Administrative Cost Allowance (ACA). These items relate to estimated costs in challenging Finance's determinations. Pursuant to HSC section 34171 (d) (1) (F) (i), legal expenses related to civil actions, including writ proceeding, contesting the validity of the dissolution law, or challenging acts taken pursuant to the dissolution laws shall only be payable out of the ACA. Therefore, these items are considered a general administrative cost payable from the Agency's ACA.

Pursuant to HSC section 34186 (a) (1), the Agency was required to report on the ROPS 15-16B form the estimated obligations versus actual payments (prior period adjustment) associated with the January through June 2015 period (ROPS 14-15B). HSC section 34186 (a) (1) also specifies the prior period adjustment self-reported by the Agency is subject to review by the CAC. The amount of RPTTF approved in the table on the following page includes the prior period adjustment resulting from the CAC's review of the Agency's self-reported prior period adjustment.

Except for the items denied in whole or in part or the items that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 15-16B. The Agency's maximum approved RPTTF distribution for the reporting period is \$3,530,395 as summarized in the Approved RPTTF Distribution table on the following page:

| Approved RPTTF Distribution | |
|--|---------------------|
| For the period of January through June 2016 | |
| Total RPTTF requested for non-administrative obligations | 8,101,606 |
| Total RPTTF requested for administrative obligations | 214,588 |
| Total RPTTF requested for obligations on ROPS 15-16B | \$ 8,316,194 |
| RPTTF adjustment to non-administrative obligations | (156,980) |
| Total RPTTF adjustments | \$ (156,980) |
| Total RPTTF requested for non-administrative obligations | 7,944,626 |
| <u>Denied Items</u> | |
| Item No. 14 | (100,000) |
| Item No. 17 | (5,000) |
| Item No. 70 | (5,000) |
| Item No. 77 | (150,000) |
| Item No. 78 | (10,000) |
| Item No. 79 | (5,000) |
| Item No. 80 | (38,800) |
| Item No. 83 | (5,000) |
| Item No. 84 | (5,000) |
| Item No. 85 | (5,000) |
| Item No. 86 | (5,000) |
| Item No. 101 | (870,365) |
| | (1,204,165) |
| <u>Reclassified Items</u> | |
| Item No. 28 | (768,300) |
| Item No. 71 | (100,000) |
| Item No. 81 | (40,000) |
| Item No. 92 | (8,400) |
| Item No. 93 | (20,178) |
| Item No. 94 | (8,400) |
| Item No. 95 | (8,400) |
| Item No. 96 | (4,200) |
| Item No. 97 | (8,462) |
| Item No. 98 | (8,400) |
| Item No. 99 | (8,400) |
| Item No. 100 | (8,400) |
| | (991,540) |
| Total RPTTF authorized for non-administrative obligations | \$ 5,748,921 |
| Total RPTTF requested for administrative obligations | 214,588 |
| <u>Reclassified Items</u> | |
| Item No. 71 | 100,000 |
| Item No. 81 | 40,000 |
| Item No. 92 | 8,400 |
| Item No. 93 | 20,178 |
| Item No. 94 | 8,400 |
| Item No. 95 | 8,400 |
| Item No. 96 | 4,200 |
| Item No. 97 | 8,462 |
| Item No. 98 | 8,400 |
| Item No. 99 | 8,400 |
| Item No. 100 | 8,400 |
| | 223,240 |
| Administrative costs in excess of the cap (see Admin Cost Cap table below) | (325,468) |
| Total RPTTF authorized for administrative obligations | \$ 112,360 |
| Total RPTTF authorized for obligations | \$ 5,861,281 |
| ROPS 14-15B prior period adjustment | (2,330,886) |
| Total RPTTF approved for distribution | \$ 3,530,395 |

| Administrative Cost Cap Calculation | |
|---|---------------------|
| Total RPTTF for 15-16A (July through December 2015) | 6,329,754 |
| Total RPTTF for 15-16B (January through June 2016) | 5,748,921 |
| Total RPTTF for fiscal year 2015-2016 | 12,078,675 |
| Administrative cost cap for fiscal year 2015-16 (Greater of 3% of Total RPTTF or \$250,000) | 362,360 |
| Administrative allowance for ROPS 15-16A (July through December 2015) | (250,000) |
| Remaining administrative cost cap for ROPS 15-16B | 112,360 |
| ROPS 15-16B administrative obligations after Finance adjustments | (437,828) |
| Administrative costs in excess of the cap | \$ (325,468) |

On the ROPS 15-16B form, the Agency reported cash balances and activity for the period January 1 through December 31, 2015. Finance will perform a review of the Agency's self-reported cash balances on an ongoing basis. Please be prepared to submit financial records and bridging documents to support the cash balances reported upon request. If it is determined the Agency possesses cash balances that are available to pay approved obligations, HSC section 34177 (l) (1) (E) requires these balances be used prior to requesting RPTTF.

Please refer to the ROPS 15-16B schedule used to calculate the total RPTTF approved for distribution:

<http://www.dof.ca.gov/redevelopment/ROPS>

This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2016. This determination only applies to items when funding was requested for the six-month period. Finance's determination is effective for this time 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 it was 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 statutes. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the Agency in the RPTTF.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-3274.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

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

I:\Audits and Review\ROPS 15-16B Letters\Justyn's Suspense

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