DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

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April 9, 2019

Mr. David Bilby, Assistant Director of Development
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

Dear Mr. Bilby:

Subject: 2019-20 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Chula Vista Successor Agency (Agency) submitted an annual Recognized Obligation Payment Schedule for the period of July 1, 2019 through June 30, 2020 (ROPS 19-20) to the California Department of Finance (Finance) on January 18, 2019. Finance has completed its review of the ROPS 19-20.

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

- Item Nos. 6, 7, and 9 – After further review of these items, the various agreements with the City in the total outstanding amount of $13,276,842 are not enforceable obligations of the Agency. To conclude whether these agreements were enforceable, Finance examined whether the agreements met the requirements outlined in HSC sections 34191.4 (b) (2) (A) or 34171 (d) (2).

<u>HSC section 34191.4 (b) (2) (A)</u>
Pursuant to HSC section 34191.4 (b), loan agreements between the former Redevelopment Agency (RDA) and sponsoring entity may be placed on the ROPS for Finance review if the following requirements are met: (1) the Agency has received a Finding of Completion; and (2) the Agency has an approved Oversight Board (OB) action approving the loan as an enforceable obligation by finding the loan was for legitimate redevelopment purposes.

The Agency received a Finding of Completion on May 7, 2013. However, OB Resolution No. 2017-001, making a finding that agreements entered into prior to December 31, 2010 for the purpose of securing or repaying indebtedness obligations were for legitimate redevelopment purposes was denied in our letter dated February 7, 2017. In order to qualify under HSC section 34191.4 (b) (2) (A), there needs to be *an exchange of money from the City to the former redevelopment agency* (RDA); and *where the RDA was obligated to repay the City in accordance to a required repayment schedule.* The agreements in question did not involve an exchange of money from the City to the RDA. Rather, the agreements are reimbursement contracts and do not meet the definition of a loan agreement under HSC section 34191.4 (b) (2) (A).

HSC section 34171 (d) (2)
These reimbursement agreements have been previously denied and were the subject of a Meet and Confer during the ROPS 18-19 period. During the Meet and Confer, Finance evaluated whether the agreements would qualify as an enforceable obligation under HSC section 34171 (d) (2). More specifically, whether the agreements were entered into at the time of issuance of indebtedness and solely for the purpose of securing or repaying the indebtedness. In our May 17, 2018 ROPS 18-19 Meet and Confer determination letter, Finance approved funding for Item Nos. 6 and 7, but denied funding for Item No. 9.

Subsequent to May 17, 2018, the Agency requested further review of Item No. 9. On September 26, 2018, Finance further explained to the Agency through e-mail that Item No. 9 does not meet the definition of an enforceable obligation under dissolution law. The analysis in this ROPs review of Item No. 9 is the same as explained in the September 26, 2018 email. Specifically, a contract can meet the exception in HSC section 34171(d) (2) if the agreement in question was entered into at the time of issuance and is solely for the security or repayment of the indebtedness. Item No. 9 is a 1993 reimbursement agreement related to 1993 Certificate of Participation (COP) which are no longer outstanding. Instead, the Agency is seeking payment for this agreement for payment of 2003 COPs. Since the 1993 agreement was not executed at the time of the 2003 COPs, the agreement does not fit the exception in HSC section 34171(d) (2) and is not an enforceable obligation.

Based on further review of Item Nos. 6 and 7, these agreements also do not qualify as enforceable obligations under dissolution law and funding was approved for the ROPS 18-19 period in error.

The 1996 Reimbursement contract only obligated the RDA to pay "when necessary" and from "available funds." The terms of the agreement do not support a finding that the RDA's payments were for the security or payment of the 1996 COPs. Further, since the City made all the debt service payments for the1996 COPs regardless of whether the RDA made any reimbursement payments, this is further evidence that the RDA's payments were not required for security of the indebtedness, a required feature of a contract to fit the exception in HSC section 34171(d)(2).

Additionally, the City's lease agreement with ABAG Finance Corporation terminated in 2002, and thus the associated reimbursement agreements also effectively terminated in 2002. Even if the reimbursement contract could be seen as security or for the payment of the 1996 COPS (which it cannot), since the COPs are no longer outstanding, the reimbursement obligation has nothing to do with the payment or security of any indebtedness and fails to meet the requirements of the exception in HSC section 34171(d)(2). Finally, the City cannot seek to enforce reimbursement for payments of a terminated contract. Therefore, the total requested amount of $3,646,686 is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item No. 46 – Successor Agency Administration in the amount of $250,000. It is our understanding the Agency requested the incorrect funding source for the Administrative Cost Allowance. Per discussion with Agency staff, the $250,000 requested for the annual ROPS period should have been requested under the Administrative RPTTF funding source. As a result, the total ROPS 19-20 RPTTF funding has decreased by $250,000 and the total ROPS 19-20 Administrative RPTTF has increased by $250,000.

- Item No. 52 – Disclosure Reporting for 16 Tax Allocation Refunding Bonds in the amount of $2,500. It is our understanding the Agency requested the incorrect amount for the continuing disclosure services. Per discussion with Agency staff and a review of documentation provided, the $2,500 requested for the annual ROPS period should be $4,663. As a result, the total ROPS 19-20 RPTTF funding requested has been increased by $2,163.

- Item No. 55 – Cash Balance Correction reimbursement request in the total outstanding amount of $155,326 is partially allowed. The Agency believes due to inaccurate reporting during the ROPS 18-19 period, Other Funding is short by $155,326; however, our Cash Balance review only supported a shortage of $48,828. Therefore, of the requested $155,326, the excess $106,498 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. Reported differences in RPTTF are used to offset current RPTTF distributions. The amount of RPTTF approved in the table on Page 5 includes the prior period adjustment resulting from the County Auditor-Controller's review of the prior period adjustment form submitted by the Agency.

Except for the items adjusted, Finance is not objecting to the remaining items listed on the ROPS 19-20. If the Agency disagrees with our determination with respect to any items on the ROPS 19-20, 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's maximum approved RPTTF distribution for the reporting period is $3,406,146 as summarized in the Approved RPTTF Distribution table on Page 5 (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1 through December 31 period (ROPS A period), and one distribution for the January 1 through June 30 period (ROPS B period) based on Finance approved amounts. Since this determination is for the entire ROPS 19-20 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

Absent a Meet and Confer, this is our final determination regarding the obligations listed on the ROPS 19-20. 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 denied until the matter is resolved.

The ROPS 19-20 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 19-20 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 RPTTF is the same as the amount of property tax increment available prior to the enactment of 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 RPTTF.

Please direct inquiries to Joshua Mortimer, Supervisor, or Erika Santiago, Lead Analyst, at (916) 322-2985.

Sincerely,

JENNIFER WHITAKER
Program Budget Manager

cc: Ms. Rachelle Barrera, Finance, City of Chula Vista
Mr. Jon Baker, Senior Auditor and Controller Manager, San Diego County

## Attachment

| Approved RPTTF Distribution<br>For the period of July 1, 2019 through June 30, 2020 | | | |
|---|---|---|---|
| | ROPS A Period | ROPS B Period | ROPS 19-20 Total |
| RPTTF Requested | $ 4,431,807 | $ 2,826,200 | $ 7,258,007 |
| Administrative RPTTF Requested | 0 | 0 | 0 |
| **Total RPTTF Requested** | **4,431,807** | **2,826,200** | **7,258,007** |
| | | | |
| **RPTTF Requested** | **4,431,807** | **2,826,200** | **7,258,007** |
| Adjustments | | | |
| Item No. 6 | (3,458,410) | 0 | (3,458,410) |
| Item No. 7 | (187,276) | 0 | (187,276) |
| Item No. 9 | (1,000) | 0 | (1,000) |
| Item No. 46 | (250,000) | 0 | (250,000) |
| Item No. 52 | 2,163 | 0 | 2,163 |
| Item No. 55 | (106,498) | 0 | (106,498) |
| | (4,001,021) | 0 | (4,001,021) |
| **RPTTF Authorized** | **430,786** | **2,826,200** | **3,256,986** |
| | | | |
| **Administrative RPTTF Requested** | **0** | **0** | **0** |
| Adjustment | | | |
| Item No. 46 | 250,000 | 0 | 250,000 |
| **Administrative RPTTF Authorized** | **250,000** | **0** | **250,000** |
| **Total RPTTF Authorized for Obligations** | **680,786** | **2,826,200** | **3,506,986** |
| Prior Period Adjustment | (100,840) | 0 | (100,840) |
| **Total RPTTF Approved for Distribution** | **$ 579,946** | **$ 2,826,200** | **$ 3,406,146** |