



December 17, 2013

Mr. Christopher J Jicha, Senior Consultant, Kosmont Companies
City of Merced Designated Local Authority
865 South Figueroa Street, 35th Floor
Los Angeles, CA 90017

Dear Mr. Jicha:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 15, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Merced Designated Local Authority (Authority) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 30, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 15, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on December 4, 2013.

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 items being disputed.

- Item Nos. 6 and 65 – Loan Guarantee payments totaling \$224,525 in other funding. These items were denied in the prior ROPS due to lack of supporting documentation. During this ROPS review, the Authority provided supporting documentation. The Authority is requesting \$150,000 and \$74,525, respectively, for these obligations. Finance initially denied the following excess amounts requested:
 - Item No. 6 – The Authority is obligated to pay a monthly payment of \$5,062 through July 2014. Therefore, of the \$150,000 requested, Finance initially approved \$30,372 in other funding for the next 6-month period and the excess amount of \$119,628 was not eligible for other funding on this ROPS. During the Meet and Confer process, the Agency provided information on the account balance and the outstanding amount due. The Deposit Account does not have any available funds and the outstanding balance is \$30,374, as verified by the trustee. The Agency is requesting to change the funding source to the Redevelopment Property Tax Trust Fund (RPTTF) in the amount of \$30,374. Therefore, Finance is approving \$30,374 to be paid from the RPTTF to ensure sufficient funds will be available to make payments on the Multi-Family Housing Revenue Bonds Series 2000 J.

However, Finance notes that Section 3.01 of the Debt Service Funding Agreement states that "in the event the Agency is required in any calendar year to draw down on the Deposit Account...Owner shall deliver to Agency a cash amount to be added to the Deposit Account equal to the lesser of either: (a) the Net Cash Flow for the prior calendar year less all such Owner's Payments paid during...prior calendar year...or (b) the amount necessary to return the Deposit Account to a total balance of \$60,747.96 as of December 31." This replenishment amount is due on or before March 31, 2014. To the extent the Authority does receive the replenishment amount as required, those funds should be used prior to the RPTTF. As such, the Authority will need to obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance pursuant to HSC section 34177 (a) (4).

- Item No. 65 – The Authority is obligated to pay a monthly payment of \$6,210 through June 2016. Therefore, of the \$74,525 requested, Finance initially approved \$37,260 in other funding for the next 6-month period and the excess amount of \$37,265 was not eligible for other funding on this ROPS. During the Meet and Confer process, the Agency provided information on the account balance and the outstanding amount due. The outstanding balance for the current period is \$37,253, as verified by the trustee, and the Deposit Account has available funds to cover the payment. Therefore, Finance is approving \$37,253 to be paid from Other Funds.
- Item Nos. 64 and 87 – Debt service funding agreement payments totaling \$470,970. Finance continues to deny these items. The former Redevelopment Agency (RDA) pledged Low and Moderate Income Housing Funds (LMIHF) as security for a U.S. Department of Housing and Urban Development (HUD) Section 108 loan agreement between the City of Merced (City) and HUD in addition to the City's pledged Community Development Block Grant (CDBG) funding being used as security. Finance initially denied these items because the requirement to set aside 20 percent of RDA tax increment for low and moderate income housing purposes ended with the passing of the redevelopment dissolution legislation.
 - For Item No. 64, the Authority is requesting \$153,770, which is half of the 2014 annual debt service due per the debt service schedule. However, no documents have been provided to show: (1) the residual receipts will be insufficient to make the full payment, (2) CDBG funds will be insufficient to cover any shortages, and (3) the Authority is required to pay the full amount. Therefore, this item is not eligible for RPTTF funding.
 - For Item No. 87, during the Meet and Confer process, the City contended that the former RDA and the City entered into a binding agreement and committed to make the City's CDBG funding whole in the event that The Grove failed to produce sufficient revenue to make the Section 108 Loan payments and the City's CDBG entitlement funds were used by HUD to satisfy the Section 108 Loan. The only document provided by the Authority and the City showing the former RDA's commitment is a resolution dated April 7, 2003. The resolution specifically states "in the event of a default on the financial obligations under the HUD 108 loan, the [former RDA] agrees to pay the obligations then due, within 60 days of receipt of a written notice from [HUD] of such a default, accompanied

by a claim for payment by HUD specifying the amounts due.” However, no such documents have been provided. The City asserts that the City has gone into default when it was unable to make the interest payment of \$58,600 due February 1, 2013, and HUD withheld CDBG funds to satisfy the debt. The City also anticipates an additional \$258,600 to be withheld from CDBG funds in July 2013. However, no documents have been provided to show that the former RDA is required to replace any CDBG funds withheld by HUD. Therefore, this item is not eligible for RPTTF funding.

- Item No. 86 – Project Area #2 1999 Tax Allocation Bonds replenishment of bond reserves in the amount of \$166,374. Finance continues to deny this item. Finance initially denied this item as no documentation was provided to support the requested funding amount. During the Meet and Confer process, the Authority stated that they were working with the trustee to verify the fund amount was correct and that they were going through a complete debt analysis to ensure all reserves were fully funded and all payment have been made. However, no additional documents were provided showing that the bond reserves were underfunded. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 90 – Costco property and remediation activities in the amount of \$24,000. Finance no longer denies this item. According to the Authority, the requested amount is based on current costs incurred. However, Finance initially denied the item as no documentation was provided to support how the estimated amount was determined. During the Meet and Confer process, the Agency provided clarification on how the amount was estimated. These are costs to administer the projects listed on Item Nos. 18, 55, and 56 that averages approximately \$2,000 per month on each project. Therefore, this item is an enforceable obligation and is eligible for RPTTF funding.

In addition, per Finance’s letter dated November 15, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item Nos. 85 and 89 – RPTTF shortfall amounts of \$400,762 for the ROPS 13-14A period and \$229,686 for the ROPS III period. Although the Merced County Auditor-Controller (CAC) reported the Authority received a RPTTF distribution amount less than the RPTTF amount Finance approved during these ROPS periods, the Authority was unable to demonstrate a shortfall or need to fund the requested amounts of \$400,762 and \$229,686. The Authority did not provide Finance with a listing of the specific ROPS items and amounts that remained unfunded to support the amounts requested for each ROPS period. At this time, and as far as Finance can ascertain, the obligations did not need to be funded during those periods and these amounts arguably should have been captured in the prior period adjustment. Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding.
- Item Nos. 45 and 46 – Annual Audit Fees totaling \$15,000. These items are considered general administrative costs and have been reclassified. Furthermore, the Agency could not provide documents to support otherwise.

Pursuant to HSC section 34186 (a), successor agencies were required to report the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. The amount of RPTTF approved in the table below includes the prior period adjustment that was self-reported by the Authority. HSC section 34186 (a) also specifies that

the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the table below includes only the prior period adjustment that was self-reported by the Authority.

Except for items denied in whole or in part as enforceable obligations or for the items that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 13-14B. The Authority's maximum approved RPTTF distribution for the reporting period is \$1,254,336 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	3,107,944
Total RPTTF requested for administrative obligations	120,500
Total RPTTF requested for obligations	\$ 3,228,444
Total RPTTF requested for non-administrative obligations	3,107,944
<u>Denied Items</u>	
Item No. 64	(153,770)
Item No. 85	(400,762)
Item No. 86	(166,374)
Item No. 87	(317,200)
Item No. 89	(229,686)
	(1,267,792)
<u>Reclassified Items</u>	
Item No. 6	30,374
Item No. 45	(7,500)
Item No. 46	(7,500)
	15,374
Total RPTTF approved for non-administrative obligations	1,855,526
Total RPTTF requested for administrative obligations	120,500
<u>Reclassified Items</u>	
Item No. 45	7,500
Item No. 46	7,500
	15,000
Total RPTTF for administrative obligations	135,500
Total RPTTF approved for obligations	1,991,026
ROPS III prior period adjustment	(736,690)
Total RPTTF approved for distribution	\$ 1,254,336

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. Beginning with the ROPS 13-14B period, Finance required successor agencies to identify fund balances for various types of funds in its possession. During our ROPS 13-14B review, Finance requested financial records to support the fund balances reported by the Authority; however, Finance was unable to reconcile the financial records to the amounts reported. As a result, Finance will continue to work with the Authority after the ROPS 13-14B review period to properly identify the Authority's fund balances. If it is determined the Authority possesses fund balances that are available to

pay approved obligations, the Authority should request the use of these fund balances prior to requesting RPTTF in ROPS 14-15A.

Please refer to the ROPS 13-14B schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14B Forms by Successor Agency/](http://www.dof.ca.gov/redevelopment/ROPS/ROPS_13-14B_Forms_by_Successor_Agency/).

This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2014. This determination applies only to items where 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 periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination 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 that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. 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 successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010, exist and are not encumbered by an enforceable obligation pursuant to HSC section 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



Justyn Howard
Assistant Program Budget Manager

cc: Mr. Michael Amabile, Chair, City of Merced Designated Local Authority
Ms. Sylvia Sanchez, Supervising Accountant, Merced County
California State Controller's Office