



REVISED

March 19, 2013

Ms. Marlene Murphey, Executive Director
City of Fresno
2344 Tulare Street, Suite 200
Fresno, CA 93721

Dear Ms. Murphey:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 5, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Fresno Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 21, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 5, 2012. 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 November 16, 2012.

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 No. 3 – Downtown Stadium Project in the amount of \$1.4 million. Finance continues to deny the item. Finance previously denied the item as HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA are not enforceable. The Agency contends the item is an enforceable obligation because written agreements entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those obligations may be deemed enforceable. HSC section 34171 (d) (2) states that written agreements entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations. However, the agreement was not entered into at the time of issuance as the Disposition and Development Agreement between the City and the former RDA was dated October 24, 2000, and the bonds were dated June 7, 2001. Furthermore, the agreement was not solely for the purpose of securing or repaying the indebtedness obligations. The provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this

item is not an enforceable obligation and is not eligible for Redevelopment Property Tax Trust Fund (RPTTF).

- Item No. 8 – Convention Center-Radisson Hotel Promissory Notes Nos. 24 and 25 in the amount of \$2.3 million. Finance continues to deny the item at this time. Finance denied the item as HSC section 34171 (d) (2) states agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable. The Agency contends the item is an enforceable obligation because written agreements entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those obligations may be deemed enforceable. Although the original agreements may have been entered into to secure debt at the time of issuance in March 1982, the 2009 Restated and Superseding Cooperation and Reimbursement Agreement was not entered into at the time of issuance solely for securing or repaying indebtedness obligations. Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, the item is currently not an enforceable obligation.
- Item No. 9 – Convention Center Development project in the amount of \$4.9 million. Finance no longer objects to the item. Finance denied this item as the Master Disposition and Development Agreement between the RDA and Old Armenian Town, LLC, does not adequately address the project scope and costs. However, further review of the documents provided indicates the Agency has an affirmative obligation to use its best efforts to obtain the property at issue for this Item. Therefore, this item is an enforceable obligation eligible for RPTTF funding. However, Finance will review this item again during the next ROPS period.
- Item No. 13 – Freeway 99/Golden State Boulevard-Brawley Industrial Development project in the amount of \$1.6 million. Finance no longer objects to the item. Finance denied the item as the Memorandum of Understanding (MOU) between the RDA and Don Pickett & Associates does not adequately address the scope of work. However, additional review of the document indicates the Agency's responsibilities are to reimburse the third party 50 percent of all costs incurred in an amount not to exceed \$1.7 million. Exhibit 1 of the MOU outlines the work to be completed at a total cost of \$3.4 million for the project, \$1.7 million of which is the Agency's obligation. Therefore, this item is an enforceable obligation and eligible for RPTTF funding.
- Item No. 16 – Fulton L Street Project in the amount of \$757,082 other funds. Finance no longer denies the item. Finance originally denied the item as HSC section 34176 (a) (2) states that if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. The Agency provided additional documents showing an Owner Participation Agreement was entered into on March 9, 2011, committing \$1.44 million to the project. Therefore, the item is an enforceable obligation.

In the January through June 2012 and July through December 2012 ROPS periods, the Agency requested and Finance approved \$727,426 and \$11,926, respectively, in RPTTF

funding. The amounts requested include \$720,000 committed to the project as well as \$19,352 in the Agency's direct project costs. For the current ROPS period, the Agency requested and Finance is approving a total of \$504,721 of "Reserve" funds to fund the commitment and the Agency's direct project costs. Finance notes that in future ROPS periods, the Agency should request the remaining balance of the commitment and the Agency's direct project costs on separate line items to be paid out of RPTTF.

- Item No. 31 – Southwest Fresno-Edison Plaza II project in the amount of \$5.7 million in Other Funds. Finance no longer denies the item. Finance originally denied the item as these are costs of the housing successor per HSC section 34176 (a) (2). This provision states if a city, county or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. The Agency provided additional documents showing a Disposition and Development Agreement was entered into on March 9, 2011, committing \$5.655 million to the project. Therefore, the item is an enforceable obligation.

In the January through June 2012 and July through December 2012 ROPS periods, the Agency requested and Finance approved \$2,843,866 and \$2,845,556, respectively, in RPTTF funding. The amounts requested included funds committed to the project as well as the Agency's direct project costs. The Agency has expended a total of \$13,366 and \$5,989 in direct project costs for the ROPS I and II periods, respectively. For the current ROPS period, the Agency requested and Finance is approving the Agency to retain the remaining \$2,830,500 of RPTTF funding received during the ROPS I period. For RPTTF funding received but not expended during the ROPS II period, the Agency may request to retain the amount on the ROPS 13-14A for use during the July through December 2013 period using "Reserves". We note that if this amount is to be requested by the Agency on ROPS 13-14A, the amount should not be reported as an expenditure for the July through December 2012 on the Prior Period Adjustment form. Additional funding needed in future ROPS periods for the remaining balances of the commitment and the Agency's direct project costs should be requested on the ROPS on separate line items to be paid out of RPTTF.

The Agency's maximum approved RPTTF distribution for the reporting period is \$5,741,323 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 5,678,770
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 3	140,743
Item 8	100,743
Total approved RPTTF for enforceable obligations	\$ 5,437,284
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	304,039
Total RPTTF approved:	\$ 5,741,323

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated

obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

The amount available from the RPTTF is the same as the 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.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2013. 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 questioned on this ROPS or a preceding ROPS.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Szalay', with a small 'for' written below it.

STEVE SZALAY
Local Government Consultant

cc: Ms. Debra Barletta, Director of Finance, City of Fresno
Mr. George Gomez, Accounting Financial Manager, Fresno County
California State Controller's Office