



REVISED

March 2, 2013

Mr. Jeff Briltz, City Manager
City of Lemoore
119 Fox Street
Lemoore, CA 93245

Dear Mr. Briltz:

Subject: Recognized Obligation Payment Schedule

This letter supersedes California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated October 3, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Lemoore Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to Finance on August 23, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 3, 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 Monday, November 5, 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 items being disputed.

- Items Nos. 12 and 13 – Future community benefit projects totaling \$954,845 funded by reserves. Finance no longer objects to these items. Finance denied the items as enforceable obligations as HSC Section 34163 (b) prohibits an agency from entering into a contract after June 27, 2011 and there are no contracts in place for these projects. The Agency contends the items are enforceable obligations because the former redevelopment agency (RDA) entered into agreements with Lemoore Union High School District and Lemoore Union Elementary School District (School Districts) in which a specific amount of funds would be obligated to the School Districts for community benefit projects and the money in the funds belongs to the School Districts and was not available for RDA use. The agreements state that special funds to be retained by the RDA were created for each school district. Section 5 of the agreement states that "If at the end of the term of the Plan/Project, there is any money remaining in the Fund, the Agency shall pay such remaining amount to the District." The Plan/Project has ended with the dissolution of the former RDA and there were remaining amounts in the Fund to be distributed to the school districts. The agreements entered into with the school districts in 1990 are enforceable obligations per HSC section 34171 (d) (1) (E), which allows "any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy." Therefore, these items are enforceable obligations.

- Item No. 14 – Cinnamon Villas project totaling \$2.7 million to be paid out of the Low and Moderate income Housing Fund (LMIHF). Finance no longer objects to this item. Finance denied the item as an enforceable obligation as HSC Section 34163 (b) prohibits an agency from entering into a contract after June 27, 2011 and the Senior Affordable Housing Complex loan was signed on December 14, 2011. The Agency contends the item is an enforceable obligation because the loan commitment was approved by the former RDA Board on March 15, 2011 payable from LMIHF contingent upon an award of Low Income Housing Tax Credits and the approval of the tax credits was received on June 22, 2011; at which point, it became an enforceable obligation. Resolution No. 2011-03 dated March 15, 2011, approved the loan commitment and authorized and directed the Executive Director of the former RDA to execute the Loan Documents once certain conditions were met. Based on the language of the resolution and the loan commitment, once the developer met the conditions of the loan commitment, the former RDA no longer had discretion as to whether or not it would provide funding under the commitment. Therefore, this item is an enforceable obligation.
- Item No. 15 – KCMD House Relocation Project totaling \$250,000 funded with LMIHF. Finance continues to deny this item. Finance denied the item as an enforceable obligation as documents provided show the City of Lemoore (City) acquired the subject property and the RDA entered into a contract for management services of the property; however, there are no agreements that evidence a loan to obligate the RDA to provide funding to a third party. The Agency contends the item is an enforceable obligation because the former RDA Board approved a loan commitment to Kings County Management and Development (KCMD) on May 25, 2011 for the relocation of the dwelling unit. However, a loan agreement was not entered into prior to June 27, 2011. Furthermore, Attachment D of the KCMD Management Agreement states that "KCMD...shall pay all costs or expenses of relocating the purchased house(s)...including but not limited to moving costs, land acquisition costs, city building fees and utility connection fees." Therefore, this item is not an enforceable obligation.
- Item No. 16 – Westside Infrastructure project totaling \$3.2 million funded by reserves. Finance continues to deny the item. Finance denied the item as an enforceable obligation as HSC Section 34163 (b) prohibits an agency from entering into a contract after June 27, 2011 and there is no contract in place for the project. The Agency contends the items are enforceable obligations because the former RDA Board approved resolution 2010-02 on September 21, 2010 for infrastructure improvements. The resolution directs staff to establish an agreement between the former RDA and the City to implement the commitment of funds. However, the resolution does not provide a specific dollar amount to be committed, rather it states "RDA commits to fund each of the above traffic improvements in their entirety at such time as the improvements are needed." Furthermore, HSC section 34171 (d) (2) states that an "enforceable obligation does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA." Therefore, the item is not an enforceable obligation.
- Items Nos. 18 and 19 – Capital and housing projects totaling \$16.6 million funded by bond proceeds. Finance continues to deny these items. Finance denied the items as enforceable obligations as HSC Section 34163 (b) prohibits an agency from entering into a contract after June 27, 2011 and there are no contracts in place for these projects. The Agency contends the items are enforceable obligations because the Official Statement

for the bonds requires the bond proceeds to be used on the affordable housing projects listed. HSC section 34191.4 (c) (1) does state that "bond proceeds derived from bonds issued on or before December 31, 2010 shall be used for the purposes for which the bonds were sold." Additionally, HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor Agencies are required to defease or repurchase on the open market for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010. The bond proceeds requested for use were issued in March 2011. Therefore, this item is not an enforceable obligation.

- Item No. 20 – Cost Allocation Plan in the amount of \$645,132. Finance continues to deny this item. Finance denied the item as an enforceable obligation as these are administrative costs for services rendered July 2011 through January 2012 and have already been disallowed as exceeding the administrative cost allowance on January through June 2012 ROPS and HSC section 34177 (l) (3) stipulates that the ROPS shall be forward looking to the next six months. The Agency contends the item is an enforceable obligation because the staffing structure was based on an annual cost allocation plan, which the former RDA Board accepted on April 7, 2009 and the administrative cost allowance did not take effect until February 1, 2012 for the successor agency. However, the Agency has already received the amount authorized per HSC section 34171 (b) which allows the greater of \$250,000 or 5 percent of the property tax allocated to the successor agency on the ROPS covering the period January 1, 2012, through June 30, 2012. Furthermore, HSC section 34171 (d) (2) states that an "enforceable obligation does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA." Therefore, this item is not an enforceable obligation.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$3,717,165 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 3,467,165
Less: Six-month total for item(s) denied or reclassified as administrative cost	0
Total approved RPTTF for enforceable obligations	<u>\$ 3,467,165</u>
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	<u>250,000</u>
Total RPTTF approved:	\$ 3,717,165

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.

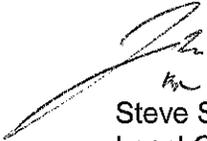
The amount available from the RPTTF is the same as the property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the

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 Mary Halterman, Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a long, sweeping underline that extends to the left.

Steve Szalay
Local Government Consultant

cc: Ms. Cheryl Silva, Finance Director, City of Lemoore
Ms. Cassandra Mann, Property Tax Manager, Kings County Auditor Controller
California State Controller's Office