



December 18, 2012

Mr. Michael Amabile, Chair
Merced City Designated Local Authority
1521 S. 6th Street
Los Banos, CA 93635

Dear Mr. Amabile:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 11, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the Merced City Designated Local Authority (Authority) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 27, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 11, 2012. Subsequently, the Authority 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 28, 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. 7 – City of Merced Loan in the amount of \$1.3 million of Redevelopment Property Trust Fund (RPTTF) funding. Finance continues to deny the item at this time. Finance denied the item as HSC section 34191.4 (b) (2) (A) states that until Finance has issued a finding of completion for the Authority, loan repayments shall not be made prior to the 2013-14 fiscal year. The City of Merced (City) contends the item is an enforceable obligation because the funds were loaned from the Restricted Water Wells Fund. Per HSC section 34171 (d) (2), loan agreements entered into between the redevelopment agency (RDA) and the city, county, or city and county that created it, within two years of the date of creation of the RDA, or solely for the purpose of securing or repaying indebtedness obligations may be deemed to be enforceable obligations. Finance has not issued a Finding of Completion to the Authority; therefore, the provisions of HSC section 34171 apply. This item is currently not an enforceable obligation. During the Meet and Confer, the Authority stated they agree with Finance's determination.
- Finance continues to deny Items 10 and 59. Finance denied the items as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. The following items do not qualify as enforceable obligations:

- Item No. 10 – Merced Center Disposition and Development Agreement (DDA) in the amount of \$4 million of RPTTF funding. The project is still in the environmental assessment phase and no construction contract was provided to establish this item as an enforceable obligation. Per the Authority, the DDA was signed in 2003 and recorded in 2004. The Merced Center Project has been completed and is well past the environmental assessment stage. Based on the Authority's review of the DDA and various attachments, they have not been able to locate environmental guarantee language and the City has been unable to direct them to such language in the DDA or locate additional documentation supporting a contingent liability of \$4 million for an environmental guarantee. Therefore, the item is not an enforceable obligation.
 - Item No. 59 – Merced Theater Renovation in the amount of \$2.1 million of other funding. No contract was provided to establish this item as an enforceable obligation. The City and the Authority agreed the item should not be on the ROPS as this item has already been completed. Therefore, the item is not an enforceable obligation.
- Item No. 57 – Merced Theater Tax Credit Guarantee in the amount of \$14.8 million of other funding. Finance no longer objects to the item; however, it is approved for \$0 pending further review of the obligation amount. Finance denied the item as according to a Completion and Repayment Guaranty Agreement between the lender, borrower, and RDA, the Merced Theatre Landlord (borrower) guaranteed to perform the loan obligations including construction of specified improvements on the real property. The former RDA is the guarantor and is to perform the borrower's obligations if the borrower failed to do so. No explanation was provided to show why the RDA is currently obligated to make the loan repayment instead of the borrower. Per the Authority, the former RDA's ongoing guarantee appears limited to the guaranty of the Managing Member's obligation to make an Operating Deficit Loan during the Initial Operating Period as described in Section 8.09 (b) of the Operating Agreement. Thus, the Authority believes that it may have a contingent liability for operating deficits of the Merced Theater. However, the Authority does not have sufficient information to confirm that the total guarantee liability is \$14.8 million with \$3.9 million currently due as to the amount of such ongoing guarantee obligations. Therefore, Finance approves the item for \$0 pending further review by the Authority of the obligation amount, which may be placed on a future ROPS for Finance's review.
- Item No. 64 – Gateways/Debt Service Funding Agreement in the amount of \$26,000 of Low and Moderate Income Housing Fund (LMIHF). Finance continues to reduce the amount requested for funding and approves the remaining obligation as \$0 pending further review of the obligation amount. Finance decreased the item as according to the agreement, total payment for the 6-months should be \$37,260 (\$6,210 x 6) but the payment requested for ROPS III is \$63,260. Therefore, the over claimed amount of \$26,000 is not an enforceable obligation. Furthermore, the total remaining obligation amount of \$3.9 million is not supported with documentation provided. The City and Authority agree with the decrease in the amount requested. Per the Authority, it appears the former RDA intended to guarantee the City's obligation of \$3.9 million to HUD with LMIHF in connection with the Grove Housing Project. The Authority agrees with the City that the guarantee should be reflected as a contingent obligation on the ROPS. However, the Authority is unable to ascertain the amount of the contingent obligation that should be reflected on the ROPS. Therefore, Finance reduces the amount requested and approves

the remaining obligation for \$0 pending further review by the Authority of the obligation amount, which may be placed on a future ROPS for Finance's review.

In addition, per Finance's ROPS letter dated October 11, 2012, the following items not disputed by the Authority's continue to be denied:

- Item No. 58 – Debt Service Funding Agreement in the amount of \$2.6 million of other funding. According to the Authority, obligation has been paid in full and the item should be removed from the ROPS.
- Item No. 68 – Highway 59 Multi-Family Housing Project in the amount of \$4.4 million of bond funding. Item appears to be a duplicate of Item No.32. No explanation was provided by the Authority to show how these two items were different. Therefore, item is not an enforceable obligation.
- Several items in the amount of \$612,606 of RPTTF and \$444,692 of other funds were listed on previous ROPS schedules for the periods January through June 2012 (ROPS I) and July through December 2012 (ROPS II) for the same amounts. The obligations belong to ROPS I or ROPS II* periods and should not appear as a continuing obligations on subsequent ROPS periods. The following items are not enforceable obligations and should be removed from ROPS III since the obligation would have been fully paid after the ROPS I period:

Line	Project Name / Debt Obligation	Fund Source	Total Obligation
6	Project Area #2/Loan Guarantee	RPTTF	30,374
15	Gateways/Reimbursement Agreement for PFEDA	RPTTF	533,488
28	Project Area #2/Land Acquisition	RPTTF	168
33*	Gateways/Highway 59 Signalization Project	RPTTF	32,438
40*	Gateways/Demolition of blighted residences	RPTTF	1,138
41	Gateways/Engineering for 18th & I Street DDA	RPTTF	5,000
42	Gateways/Lot entitlements for 18th & I Street DDA	RPTTF	10,000
47	Project Area #2/Rehabilitation of 951 W. 7th Street	OTHER	30,900
48	Project Area #2/Merced County Arts Council Lease	OTHER	12,425
49	Project Area #2/Merced County Environmental Health	OTHER	7,011
50	Project Area #2/Castle Analytical Lab	OTHER	184
51	Project Area #2/Advanced Chemical Transport	OTHER	2,550
52	Project Area #2/Provost & Pritchard Testing	OTHER	6,110
53	Project Area #2/Downey Brand LLP	OTHER	20,171
54	Project Area #2/Security Monitoring for Environmental	OTHER	270
55	Project Area #2/Provost & Pritchard Testing	OTHER	51,629
56	Project Area #2/Provost & Pritchard Testing	OTHER	78,434
60	Project Area #2/Merced Theatre Renovation	OTHER	45,000
61	Project Area #2/Merced Theatre Renovation	OTHER	40,000
62	Project Area #2/Merced Theatre Renovation	OTHER	125,008
63	Project Area #2/Merced Theatre Renovation	OTHER	25,000

*Obligation paid off after ROPS II period, July through December 2012.

- Administrative cost claimed exceeded the allowance by \$69,850. HSC section 34171 (b) limits the 2012-13 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater.

Amount administrative costs for fiscal year 2012-13	\$250,000
Administrative costs claimed for July through December 2012	157,100
Administrative costs claimed for January through June 2013	162,750
Overage	\$69,850

The Authority's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$2,539,545 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 4,500,628
Less: Six-month total for items denied or reclassified as administrative cost	
Item 5*	\$ 162,750
Item 6	30,374
Item 7	1,278,627
Item 15	533,488
Item 28	168
Item 33	32,438
Item 40	1,138
Item 41	5,000
Item 42	10,000
Total approved RPTTF for enforceable obligations	\$ 2,446,645
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	92,900
Total RPTTF approved:	\$ 2,539,545

*Reclassified as administrative cost

Administrative Cost Calculation	
Total RPTTF for the period July through December 2012	\$ 1,770,394
Total RPTTF for the period January through June 2013	2,446,645
Total RPTTF for fiscal year 2012-13:	\$ 4,217,039
Allowable administrative cost for fiscal year 2012-13 (Greater of 3% or \$250,000)	250,000
Administrative allowance for the period of July through December 2012	157,100
Allowable RPTTF distribution for administrative cost for ROPS III:	\$ 92,900

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,



STEVE SZALAY
Local Government Consultant

cc: Mr. Mark Persico, Senior Consultant, Kosmont Company
Ms. Sylvia Sanchez, Supervising Accountant, Merced County
California State Controller's Office