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9 UNITED STATES BANKRUPTCY COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION

12 In re:
 13 CITY OF STOCKTON, CALIFORNIA,
 14 Debtor.

Case No. 2012-32118
 D.C. No. OHS-15
 Chapter 9

**CITY OF STOCKTON'S RESPONSE
 TO FRANKLIN HIGH YIELD TAX-
 FREE INCOME FUND AND
 FRANKLIN CALIFORNIA HIGH
 YIELD MUNICIPAL FUND'S
 EVIDENTIARY OBJECTIONS TO
 DIRECT TESTIMONY
 DECLARATION OF MICHAEL CERA
 REBUTTING EXPERT REPORT OF
 FREDERICK E. CHIN**

21 WELLS FARGO BANK, et al.
 Plaintiffs,
 22 v.
 23 CITY OF STOCKTON, CALIFORNIA,
 Defendant.

Adv. No. 2013-02315
 Date: May 12, 2014
 Time: 9:30 a.m.
 Dept: Courtroom 35
 Judge: Hon. Christopher M. Klein

1 Pursuant to paragraph 44 of the Order Governing The Disclosure And Use Of Discovery
 2 Information And Scheduling Dates, Etc. [Dkt. Nos. 1224 (Case), 16 (Proceeding)], as amended
 3 by the Order Modifying Order Governing The Disclosure And Use Of Discovery Information
 4 And Scheduling Dates, Etc. [Dkt. Nos. 1242 (Case), 18 (Proceeding)] (collectively, the “Orders”),
 5 the City of Stockton, California (the “City”), the debtor and defendant in the above-captioned
 6 case and adversary proceeding, hereby submits the following responses to Franklin High Yield
 7 Tax-Free Income Fund and Franklin California High Yield Municipal Fund’s (collectively,
 8 “Franklin’s”) Evidentiary Objections to Direct Testimony Declaration of Michael Cera Rebutting
 9 Expert Report Of Frederick E. Chin [Dkt. Nos. 1412 (Case), 101 (Proceeding)].

10 The City disagrees with all of Franklin’s objections to Mr. Cera’s declaration and submits
 11 that Franklin will have the opportunity to cross-examine Mr. Cera to address any alleged
 12 deficiencies in his declaration. However, to the extent the Court determines that any of Mr.
 13 Cera’s statements in his declaration require clarification or additional foundational support, the
 14 City is prepared to provide live testimony at trial by Mr. Cera to clarify or lay any foundation the
 15 Court deems necessary.

16 The City’s responses to Franklin’s specific objections follow:

| PARAGRAPH OBJECTED TO | GROUNDS FOR OBJECTION | RESPONSE TO OBJECTION |
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| 17 4. The City has foregone a 18 great deal of capital 19 improvements and 20 maintenance at the Ice Arena. 21 While this resulted in a short- 22 term savings, the physical 23 infrastructure at the Ice Arena 24 has suffered, and the Ice 25 Arena is now in need of 26 critical maintenance and 27 upgrades. 28 | Franklin objects to the statements in this paragraph because they are vague, speculative, and lack foundation. FED. R. EVID. 602. Franklin incorporates by reference herein the <i>Motion Of Franklin High Yield Tax- Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i> | The statements in this paragraph are sufficiently clear and do not lack foundation under FED. R. EVID. 602 because they are based on the fact that Mr. Cera is the General Manager of SMG Stockton, in which capacity he has been responsible for general oversight of all facets of the Oak Park Ice Arena’s operations for over three years, and has over 15 years of experience in venues management, as more fully described in ¶¶ 1-3 of his declaration. To the extent necessary, the City will make an offer of proof at trial. |

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| PARAGRAPH OBJECTED TO | GROUNDS FOR OBJECTION | RESPONSE TO OBJECTION |
|---|---|--|
| | | The City incorporates by reference herein its <i>Opposition To Motion Of Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i> |
| <p>5. The largest capital improvement overdue for the Ice Arena is the replacement of the ice floor. The current ice floor is uneven, rusty, and leaky. The floor has suffered from major permafrost damage, causing the ground to heave and sink in places. The resulting unevenness affects the ability to maintain a quality ice surface. Also, the piping needed to keep the floor refrigerated has rusted almost completely through, requiring frequent repairs. SMG has estimated the cost of a replacing the ice floor at approximately \$350,000.</p> | Franklin incorporates by reference herein the <i>Motion Of Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i> | The City incorporates by reference herein its <i>Opposition To Motion Of Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i> |
| <p>6. In addition, the Ice Arena’s ice plant, which is 43 years old, is in need of replacement. After the latest round of emergency repairs to the ice plant in 2012, the Ice Arena is still running at only 33% capacity. <u>Many repair issues still exist, and parts for those repairs are either extremely difficult to find or must be custom-made due to obsolescence.</u> Replacement would be preferable to constant repairs and downtime. SMG estimates the cost of a total overhaul of the ice plan to be \$500,000.</p> | Franklin objects to the underlined statements in this paragraph because they are speculative and lack foundation. FED. R. EVID. 602. Franklin incorporates by reference the <i>Motion Of Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i> | <p>The underlined statements in this paragraph are sufficiently clear and do not lack foundation under FED. R. EVID. 602 because they are based on the fact that Mr. Cera is the General Manager of SMG Stockton, in which capacity he has been responsible for general oversight of all facets of the Oak Park Ice Arena’s operations for over three years, and has over 15 years of experience in venues management, as more fully described in ¶¶ 1-3 of his declaration. To the extent necessary, the City will make an offer of proof at trial.</p> <p>The City incorporates by reference herein its <i>Opposition To Motion Of</i></p> |

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| PARAGRAPH OBJECTED TO | GROUNDS FOR OBJECTION | RESPONSE TO OBJECTION |
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| | | <i>Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i> |
| <p>7. <u>There is a litany of other capital improvements needed at the Ice Arena.</u> Attached as Exhibit A hereto is a true and correct copy of a spreadsheet showing the most up-to-date quotes for some of the capital improvements needed at the Ice Arena. <u>The improvements reflected in Exhibit A include the items below, listed with SMG’s estimate of the cost for each:</u></p> <p>a) <u>The floors and fixtures of the building’s lobby and restrooms are original to the building and require constant repair and maintenance. Two of the restrooms are currently completely unusable. New flooring and utility infrastructure is needed (\$200,000).</u></p> <p>b) <u>The building’s stucco walls are chipping and falling apart, and need to be either repaired or replaced (\$150,000).</u></p> <p>c) <u>The Ice Arena’s current ice resurfacer is 23 years old, is near the end of its expected life, and is in need of constant major repair. The condition of the resurfacer greatly increases the work and effort needed to maintain a safe, quality ice sheet, and should</u></p> | <p>Franklin objects to the underlined statements in this paragraph because they are speculative and lack foundation. FED. R. EVID. 602. Franklin incorporates by reference herein the <i>Motion Of Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i></p> | <p>The underlined statements in this paragraph are sufficiently clear and do not lack foundation under FED. R. EVID. 602 because they are based on the fact that Mr. Cera is the General Manager of SMG Stockton, in which capacity he has been responsible for general oversight of all facets of the Oak Park Ice Arena’s operations for over three years, and has over 15 years of experience in venues management, as more fully described in ¶¶ 1-3 of his declaration. To the extent necessary, the City will make an offer of proof at trial.</p> <p>The City incorporates by reference herein its <i>Opposition To Motion Of Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera.</i></p> |

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| PARAGRAPH OBJECTED TO | GROUNDS FOR OBJECTION | RESPONSE TO OBJECTION |
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| <p><u>be replaced (\$95,000).</u></p> <p>d) <u>As a result of the Energy Independence Act, a federal program that phased out the production or ability to import a variety of non-energy efficient materials and equipment, rink lighting must be re-lamped with energy efficient bulbs and protective screens must be installed (\$75,000). The lighting above the ice at the Ice Arena was phased out starting in July 2012.</u></p> <p>e) <u>The parking lot, which has not been repaved since the Ice Arena opened in 1971 (43 years ago), needs to be repaved (\$50,000).</u></p> <p>f) <u>A ventilation and exhaust system must be added to the locker rooms (\$30,000).</u></p> | | |
| <p>8. As reflected in Exhibit A, the capital improvements needed at the Ice Arena have a total cost of over \$2 million.</p> | <p>Franklin objects to the statements in this paragraph because they lack foundation. FED. R. EVID. 602. Franklin incorporates by reference herein the <i>Motion Of Franklin High Yield Tax-Free Income Fund And Franklin California High Yield Municipal Fund To Exclude Testimony Of Michael Cera</i>.</p> | <p>The statements in this paragraph are sufficiently clear and do not lack foundation under FED. R. EVID. 602 because they are based on the fact that Mr. Cera is the General Manager of SMG Stockton, in which capacity he has been responsible for general oversight of all facets of the Oak Park Ice Arena's operations for over three years, and has over 15 years of experience in venues management, as more fully described in ¶¶ 1-3 of his declaration. To the extent necessary, the City will make</p> |

