

December 17, 2013

Mr. John B. Bahorski, City Manager
City of Cypress
5275 Orange Avenue
Cypress, CA 90630

Dear Mr. Bahorski:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated October 30, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Cypress Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 18, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on October 30, 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 November 13, 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 No. 2 – Repayment Agreement between the City of Cypress (City) and the Agency in the amount of \$25,318,106, payable from Redevelopment Property Tax Trust Fund (RPTTF). Finance continues to deny this item. Records indicate the Cypress Redevelopment Agency (RDA) was created in 1979. On March 23, 2009, the City and the former RDA entered into a repayment agreement in order to consolidate all outstanding notes between the RDA and City because sufficient tax increment had not been received to pay off the previous notes. This repayment agreement identified that repayment would be due on June 30, 2012 unless extended by mutual agreement. Section 2 of this agreement required repayment only if and to the extent tax increment is received and that in the event that there are insufficient funds to make the required payments, the City would reasonably consider extending the repayment date. The repayment of this loan, in the amount of \$25,741,764, was denied in the April 27, 2012 ROPS letter issued by Finance. Subsequently, the Oversight Board approved the re-entry of the agreement on May 15, 2012 in Resolution OB-4 and the Agency and the City re-entered into the repayment agreement on May 22, 2012.

The Agency contends the item is enforceable obligations because the Agency was authorized to re-enter into the agreements by resolution of the duly appointed Oversight Board after making findings of benefit to taxing entities at their meeting on May 15, 2012,

as permitted by HSC sections 34171 (d) (2), 34178 (a), and 34180 (h) as amended by ABx1 26 and effective as of the date of the Oversight Board's action. While HSC section 34178 (a) and 34180 (h) authorizes successor agencies to re-enter into agreements, any agreement re-entered into cannot conflict with the requirements set forth in HSC 34171 (d), as ABx1 26 did not specifically carve out an exception to the definition of an enforceable obligation nor did HSC section 34178 (a) or 34180 (h) not withstand HSC section 34171 (d). Therefore, the Oversight Board had no legal basis to approve an action that directly conflicted with and violated the definition of an enforceable obligation. Even if Finance did not object to the specific Oversight Board actions authorizing the Agency to re-enter into agreements, the statute as a whole prohibits such an action from being validated if it conflicts with the definition of an enforceable obligation. Additionally, Finance has clearly defined authority under HSC sections 34177 and 34179 (h) to review any items on a ROPS to determine whether or not successor agencies are responsible for the obligation listed on their ROPS. Even if an Oversight Board approved an action that created an enforceable obligation, Finance has the authority to review the enforceable obligation for compliance with HSC section 34171 (d) or for compliance with any other statutory requirements contained in Chapter 26, statutes of 2012 (AB 1484). At no time can an Oversight Board action eliminate Finance's authority to review an enforceable obligation as part of a ROPS review.

The Agency has not received a Finding of Completion (FOC). Once the Agency receives their FOC, the Agency may place loan agreements between the former RDA and its sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes pursuant to HSC section 34191.4 (b) (1). However, HSC section 34176 (e) (6) (B) specifies loan repayments shall not be made prior to the 2013-14 fiscal year. While ROPS 13-14B falls within fiscal year 2013-14, the repayment of the city loan is subject to the repayment formula outlined in HSC section 34191.4 (b) (2) (A).

HSC section 34191.4 (b) (2) (A) allows this repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the taxing entities in the 2012-13 base year. Since the formula does not allow for estimates, the Agency must wait until the ROPS residual pass-through distributions are known for fiscal year 2013-14 before requesting funding for this obligation. Therefore, after receiving their FOC, the Agency may be able to request funding beginning with ROPS 14-15A.

During our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should be used prior to requesting RPTTF. Pursuant to HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. Therefore, the funding source for the following item is being reclassified to Other Funds and in the amount specified below:

- Item No. 3 – Employee Costs in the amount of \$1,458. The Agency requested \$37,798 from RPTTF; however, Finance is reclassifying \$1,458 to Other Funds. This item was determined to be an enforceable obligation for the ROPS 13-14B period. However, the obligation does not require payment from property tax revenues and the Agency has \$1,458 in Other Funds. Therefore, Finance is approving RPTTF in the amount of

\$36,340 and the use of Other Funds in the amount of \$1,458, totaling \$37,798 for this item.

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 Agency. 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 Agency.

Except for the item denied in whole or in part as enforceable obligation or for the item that have been reclassified, Finance is not objecting to the remaining items listed on your ROPS 13-14B. The Agency's maximum approved RPTTF distribution for the reporting period is \$1,818,387 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	6,021,857
Total RPTTF requested for administrative obligations	48,469
Total RPTTF requested for obligations	\$ 6,070,326
Total RPTTF requested for non-administrative obligations	6,021,857
<u>Denied Items</u>	
Item No. 2	(4,202,106)
Total RPTTF approved for non-administrative obligations	1,819,751
Total RPTTF requested for administrative obligations	48,469
<u>Reclassified Items</u>	
Item No. 3	(1,458)
Total RPTTF approved for administrative obligations	47,011
Total RPTTF approved for obligations	1,866,762
ROPS III prior period adjustment	(48,375)
Total RPTTF approved for distribution	\$ 1,818,387

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%2013-14B%20Forms%20by%20Successor%20Agency/).

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 Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Matt Burton, Assistant Director of Finance & Administrative Services, City of Cypress
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office