



April 13, 2013

Ms. Kelly Ent, Director of Administrative Services  
City of Big Bear Lake  
P.O. Box 10000  
Big Bear Lake, CA 92315

Dear Ms. Ent:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated March 8, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Big Bear Lake Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 15, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Finance issued an OFA DDR determination letter on March 8, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer session was held on March 20, 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 those specific items being disputed. Specifically, the following adjustments were made:

- Transfers to the City of Big Bear Lake (City) totaling \$3,425,648 is partially disallowed.
  - The Agency provided documentation that materially supports \$796,026 was not a transfer. This amount represents general ledger adjustments to the capital project accounts that occurred prior to January 1, 2011 and no actual funds were transferred.
  - The remaining \$2,629,622 was transferred in accordance with an agreement between the City and the Agency. Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former RDA or successor agency to the city, county, or city and county that formed the former redevelopment agency between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171, contracts detailing specific work that were entered into by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. Therefore, the transfer was not made pursuant to an enforceable

obligation and is not permitted. Consequently, the balance available for distribution will be increased by \$2,629,622.

- The request to retain funds in the amount of \$34,959 for Recognized Obligation Payment Schedule (ROPS) obligations is approved. Finance previously denied this amount as no funding was previously requested in the current fiscal year. However, this amount was requested on the January through June 2012 ROPS (ROPS I) and funds were not expended. Finance re-approved \$18,984 for the project on the January through June 2013 ROPS (ROPS III); however, the County Auditor Controller adjusted the Agency's Redevelopment Property Tax Trust Fund distribution by the amount of unspent funds from the ROPS I period. Therefore, the unspent amounts from ROPS I are to be used to fund the ROPS III approved obligation and any remaining unspent amounts will be reconciled by the CAC in accordance with HSC section 34186 (a). As such, Finance's initial adjustment to the available balance has been reversed.

The Agency did not object to the following adjustment made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustment is appropriate:

- Our review indicates the total amount of assets held as of June 30, 2012 should be \$7,620,808 due to a year-end closing adjustment which occurred after the preparation of the DDR. As such, the total amount of assets held as of June 30, 2012 has been adjusted by \$140,000.

The Agency's OFA balance available for distribution to the affected taxing entities is \$12,279,884 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 9,510,262
Finance Adjustments	
Add:	
Disallowed transfers	\$ 2,629,622
Adjustment to the June 30, 2012 balance	140,000
<b>Total OFA available to be distributed:</b>	<b>\$ 12,279,884</b>

This is Finance's final determination of the OFA balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient. Upon submission of payment, it is requested you provide proof of payment to Finance within five business days.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1)

(B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC sections 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter do not in any way eliminate the Controller's authority.

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

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Erica Stephenson, Finance Supervisor, City of Big Bear Lake  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County  
California State Controller's Office