



December 18, 2012

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

Dear Ms. Ent:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 14, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Big Bear Lake Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 30, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 14, 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 November 6, 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 item being disputed.

- Item Nos. 5, and 6 – Contracts for Construction and Inspection totaling \$6.9 million. While we understand the unique situation the Agency faces, Finance continues to deny this item. Finance denied this item because it is a contract between the City of Big Bear Lake (City) and third party. Finance determined the former RDA has no responsibility to perform under the contract between the City and the third party. The Agency contends the cooperative agreement between the City and the former RDA financially obligates them; therefore, the underlying agreement is between the City and the former RDA and HSC section 34171 (d) (2) applies. This provision states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations.

In addition, we noted the contract between the City and the third party includes a termination clause stating "This contract may be terminated by the City at any time by giving Contractor three (3) days advanced written notice. In the event of termination by the City for any reason other than the fault of Contractor, City shall pay Contractor for all Work performed up to that time..." We also note that this item was denied on both ROPS I and II therefore, work on the project should not have advanced with the anticipation of payment on future ROPS. HSC section 34177 (a) (3) states only those payments listed on the ROPS may be made.

- Items 7 – Contract for Design in the amount of \$15,519. Finance continues to deny this item. Finance denied this item because the contract was entered into after June 27, 2011. The Agency contends this contract was entered into on June 27, 2011 and falls within the appropriate time frame. Section 1, Parties and Date, of the agreement states “This Agreement is made and entered into this 28<sup>th</sup> day of June 2011...” In addition, according to the signature page, the agreement was not fully executed by all required parties until July 12, 2011. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. The Agency also contends the contract listed for Item 5 creates a financial duty for Item 7 by the RDA; however, Finance determined that Item 5 is not enforceable because the RDA is not a party to that contract; therefore this item is not an enforceable obligation eligible for RPTTF funds.
- Item 8 – Soil Testing / Inspection Services in the amount of \$166,229. Finance continues to deny this item. Finance denied this item because the contract was entered into after June 27, 2011. The invoice provided is addressed to the City, not the RDA, and is fully approved on January 17, 2012 – well after the date the RDA had the ability to enter into agreements. The Agency contends the contract listed for Item 5 creates a financial duty for Item 8 by the RDA; however, Finance determined that Item 5 is not enforceable because the RDA is not a party to that contract; therefore this item is not an enforceable obligation eligible for RPTTF funds.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$743,427 as summarized below:

<b>Approved RPTTF Distribution Amount For the period of January through June 2013</b>	
Total RPTTF funding requested for obligations	\$ 4,286,845
Less: Six-month total for item(s) denied or reclassified as administrative cost	
Item 5	3,400,000
Item 6	120,000
Item 7	15,519
Item 8	85,000
Total approved RPTTF for enforceable obligations	\$ 666,326
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	77,101
<b>Total RPTTF approved:</b>	<b>\$ 743,427</b>

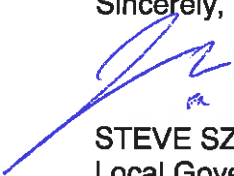
Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account 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 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