COUNTY OF PLACER

County Administrative Center
175 Fulweiler Avenue
Auburn, CA 95603

Oversight Board

of the Successor Agency of the
former Placer County Redevelopment Agency

July 17, 2013
10:30 A.M. (PDT)
Auburn, California
175 Fulweiler Avenue, Auburn, CA

Pursuant to Government Code Section 54953, subdivision (b), the Placer County Oversight Board meeting of Wednesday, July 17, 2013 will include teleconference participation from the Duluth Public Library, 520 West Superior Street, Duluth, Minnesota, 95603. This Notice and Agenda will be posted at the teleconference location.

Members of the Board:

Jennifer Montgomery, Placer County Board of Supervisors, Chair
Ron McIntyre, Public Member appointed by County Board of Supervisors
Gerald Johnson, appointed by Superintendent of Board of Education
Dr. Ronald Feist, Public Member appointed by Superintendent of Board of Education
Chris Yatooma, appointed by California Community College Chancellor
Lane Lewis, appointed by North Tahoe Public Utility District
Thomas Hart, former Redevelopment Agency Employee appointed by County Board of Supervisors

AGENDA

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Public Comments**

   At this time, members of the public may comment on any item not appearing on the agenda. Under state law, matters presented under this item cannot be discussed or acted upon by the Board at this time. For items appearing on the agenda, the public is invited to make comments at the time the items come up for Board consideration. Any person addressing the Board will be limited to a maximum of three (3) minutes so that all interested parties have an opportunity to speak. Comments from the audience WITHOUT coming to the podium will be disregarded or ruled out of order. Please state your name and address for the record.

4. **Receive an update on agreement negotiations with B.B., LLC for loans held by the Successor Agency, and provide input and direction as necessary.**

   No action requested.

   Presenter: Allison Carlos

5. Close.

Future items and meetings.

Next meeting: TBD

The above actions of the Oversight Board (Board) shall not become effective for five (5) business days, pending any request by the Department of Finance (DoF). If DoF requests review of the above Board actions, it will have forty (40) days from the date of its request to approve the Board action or return if to the Board for reconsideration and action. If action is taken by the Oversight Board, action will not be effective until approved by DoF.

Materials related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the Clerk of the Board's office at 175 Fulweiler Avenue, Auburn, CA during normal business hours. Placer County is committed to ensuring that persons with disabilities are provided the resources to participate fully in its public meetings. If you are hearing impaired, we have listening devices available. If you have a disability and need a disability-related modification or accommodation to participate in the meeting, please contact the Clerk of the Board's office at (530) 889-4000. Contact the Clerk of your needs at least 24 hours prior to the meeting. If requested, the agenda shall be provided in appropriate alternative formats to persons with disabilities. All requests must be in writing and must be received by the Clerk five (5) business days prior to the scheduled meeting for which you are requesting accommodation. Request received after such time will be accommodated on if time permits.

PLACER COUNTY

OVERSIGHT BOARD

MEMORANDUM

TO: Honorable Members of the Oversight Board
FROM: Allison Carlos, Successor Agency Officer Designee
DATE: July 17, 2013
SUBJECT: Receive an update on agreement negotiations with B.B., LLC for loans held by the Successor Agency, and provide input and direction as necessary.

ACTION REQUESTED

Receive an update on agreement negotiations with B.B., LLC for loans held by the Successor Agency, and provide input and direction as necessary.

BACKGROUND / SUMMARY

At the June 25, 2013 Oversight Board (Board) meeting, staff reported that, after weeks of negotiation of conceptual terms for a loan workout agreement with B.B., LLC for the four promissory notes held by the Successor Agency (Agency), there had been limited progress in core areas important to your Board, the Agency Board, and the Kings Beach community.

At that meeting your Board identified significant key terms, expressing your interest for B.B., LLC to, at minimum, address three specific items prior to the July 17, 2013 meeting. These key terms were: (1) take appropriate actions with the Placer County Treasurer-Tax Collector to resolve delinquent property taxes, (2) agree to set aside funds required to cover the cost of environmental review and entitlement processing for the project proposed for the site, and (3) commit to maintain the properties as assembled for development as a unified project. On June 28, 2013 staff sent a letter to John Davis reiterating these key terms and responding to all proposed terms to date.

On July 5, 2013, Agency staff received a letter from Mark Carlquist, attorney for John Davis, B.B.LLC's manager (attached). The letter conveys their conclusion that these "critical issues are not subject to resolution acceptable to both parties" and their determination that a mutually acceptable agreement is not "ascertainable". Mr. Carlquist's letter also communicated B.B., LLC's appreciation of the Agency's good faith efforts and willingness to cooperate with the Agency in its implementation of alternative plans relating to the four promissory notes.

CONCLUSION

In light of B.B., LLC's decision, staff will proceed with Agency responsibilities for wind down efforts under the Dissolution Act as pertains to the B.B., LLC loans with the goal, to the fullest extent possible, of facilitating delivery of a high quality mixed use project for Kings Beach. Options include:

- Proceeding with a foreclosure – Interest would be for a cooperative foreclosure with the Agency obtaining title to the property free of all liens except the existing tax lien. It is anticipated this would be a 4-5 month process in order to comply with statutory requirements.

- Accept a "deed in lieu" of foreclosure – If B.B., LLC and its principals, including Steven K. Brown are amenable, conveyance by a deed in lieu of foreclosure would enable the Successor Agency to obtain title to the property in shorter period of time than foreclosure.

- Effect conveyance of the property directly to a new developer - If a third-party developer is identified, a third alternative would be to arrange for B.B., LLC to convey the property directly to the developer.

With all of the above alternatives, the Agency may implement requirements regarding maintenance and development of the site. As previously identified for your Board, if the Agency takes title to the property, it would be included on the Long-Range Property Management Plan that will be presented for approval to your Board and to the Department of Finance. Through this document, staff would incorporate concepts for development and sale of the property with the interest to keep them assembled for delivery of a mixed-use project as discussed.

Staff further intends to undertake additional discussions with B.B., LLC, develop a specific recommendation for presentation to the Agency Board, and will return to your Board with further information. The attorney for B.B., LLC has suggested their cooperation and assistance with various approaches.

In the interim, with your concurrence, we will immediately proceed to actively solicit interest from parties that may be willing and able to take ownership of the properties and deliver a project as contemplated.

Attachments:
July 5, 2013 Letter from Mark Carlquist
June 28, 2013 Letter to John Davis

cc: David Boesch, Successor Agency Officer
Susan Bloch, Placer County Successor Agency Counsel
Mark Carlquist, Esq.
John Davis, B.B., LLC

4

B.B., LLC

TELEPHONE
(408) 354-1955

LAW OFFICES OF
MARK S. CARLQUIST
985 UNIVERSITY AVENUE, SUITE 38
LOS GATOS, CALIFORNIA 95032
E-MAIL: MARK@CARLQUISTLAW.COM

FACSIMILE
(408) 354-2127

July 5, 2013

Via Email (ACarlos@placer.ca.gov)

Allison Carlos
Successor Agency Official, Designee
Placer County Successor Agency
County Administrative Center
175 Fulweiler Avenue
Auburn, CA 95603

Re: Correspondence between Placer County Successor Agency ("Successor Agency") and BB, LLC ("BB")

Dear Ms. Carlos:

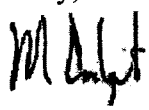
You will recall from our May 22, 2013 meeting that my office represents John Davis in his capacity as manager of BB. John forwarded the June 28, 2013 letter from the Successor Agency, together with the earlier letters of June 18, 2013 and June 13, 2013. The purpose of this letter is to set forth BB's position in light of these most recent communications. Please note that John is away for the Fourth of July holiday, and has requested that I prepare and send this letter in his absence.

It is evident from the June 28 letter that the Successor Agency and BB remain at impasse on certain critical issues. It is equally evident that certain of these critical issues are not subject to resolution acceptable to both parties. In light of the foregoing, my client concludes that further dialogue on these issues would only defer the inevitable. Please understand that this determination was made only after careful consideration of a current posture of the negotiations and forward thinking.

It is critical that you understand that BB recognizes and appreciates the good faith demonstrated by the Successor Agency over the past months. In light of the Successor Agency's good faith efforts, BB believes that fundamental fairness requires immediate communication of its determination that a mutually acceptable definitive agreement is not ascertainable.

Furthermore, I have been directed to communicate that BB stands ready to assist the Successor Agency in its alternative plan relating to the four promissory notes secured by property owned by BB. By example, if the alternative plan is to attempt to locate another developer, BB will cooperate fully in providing relevant information to any proposed new developer. We look forward to working with you in this regard, and encourage you to contact me with any questions or comments.

Sincerely,



Mark S. Carlquist, Esq.
MSC/mf
Pc: client
Sue Bloch, (via email (sbloch@bwslaw.com))

COUNTY OF PLACER

Successor Agency of the
former Placer County Redevelopment Agency

County Administrative Center
175 Fulweiler Avenue
Auburn, CA 95603

VIA EMAIL

June 28, 2013

John Davis, Manager
BB LLC c/o TMFC Inc.
521 Charcot Avenue, Suite 101
San Jose, CA 95131

RE: June 18, 2013 correspondence to the Placer County Successor Agency

Dear Mr. Davis:

Thank you for your June 18, 2013 letter responding to the Placer County Successor Agency (Successor Agency) letter dated June 13, 2013. To assist you with your review, this response is provided in redline format to the Successor Agency terms expressed in our June 13th letter. These are terms that the Agency proposes for a loan forbearance/workout agreement (Agreement) in connection with the four promissory notes (Notes) held by the Successor Agency and secured by property owned by B.B., LLC. This letter does not represent a binding commitment. Any definitive agreement will require approval by the Successor Agency Board, Oversight Board, and concurrence by the Department of Finance, and may contain different or additional terms.

I suggest a meeting with you the week of July 8 to discuss the disposition of this negotiation prior to the July 17, 2013 Oversight Board meeting. To facilitate a productive meeting, I respectfully request receiving a response to this letter no later than July 8 at 8AM.

1. Term. The Agreement would terminate on December 31, 2015. Provided that there has been no default under the Agreement and all milestones have been satisfied, the term may be extended for a two-year period ending December 31, 2017. Any further extension beyond such date would be in the sole discretion of the Successor Agency and would be subject to approval by the Oversight Board and, if required, the California Department of Finance. During the term of the Agreement, provided that there has been no default, the Successor Agency would agree not to pursue foreclosure. Please note that we do not concur with your proposed revision to this paragraph as stated in bold *"...if required, the California Department of Finance,* ***with the exception so those as further defined herein****". During the term of the Agreement...*

2. Agreement Termination. Default under any provision of the Agreement would be grounds for termination and Successor Agency would pursue all remedies. In the event of default, Successor Agency could pursue foreclosure on the basis of the full face value of the Notes plus accrued interest. Please note we do not concur with your proposed revision to this paragraph as stated in bold, *"...could pursue foreclosure on* ***the basis of the full purchased value of the notes****, plus interest."*

3. Property Tax Default Payment Plan. As a condition of the Agreement, B.B., LLC must have entered into a written agreement with the Placer County Treasurer-Tax Collector that addresses payment of all tax delinquencies and penalties. A copy of the fully-executed tax payment plan for each parcel must be delivered to the Successor Agency by no later than the date of the executed agreement ~~June 30, 2013.~~ Neither the Successor Agency nor Placer County has agreed to provide any kind of financial assistance in connection with the resolution of the tax delinquencies and penalties. Please note that the Oversight Board has requested that B.B.,LLC demonstrate active progress toward execution of agreements with the Placer County Treasurer-Tax Collector and report on that progress at the July 17th Oversight Board meeting. The Oversight Board also indicated at the June 25th meeting that execution of a tax payment plan is a required condition to the effectiveness of an agreement.

4. Property Tax Payments. On a monthly basis throughout the term of the Agreement, B.B., LLC shall be required to deposit into an impound account controlled by the Successor Agency one-twelfth (1/12) of the then-current annual amount of property taxes and assessments levied against the Property. This is not intended to impair any rights that B.B., LLC or its principals may have to seek an appeal of tax assessments.

5. Loan Principal Repayment. Provided that there has been no default under the Agreement, the amount required to pay off the principal balance of the Loans shall be the sum of Four Million Seven Hundred Fifty Thousand Dollars ($4,750,000). This sum is equal to the $500,000 predevelopment loan originated by the RDA plus the purchase price that the RDA paid for the notes originated by Umpqua and Central Pacific Bank. The Agreement will not provide for a permanent write-down of the principal balance of the Notes; rather, the reduction of the principal amount payable is a concession that is expressly contingent upon compliance with the Agreement. Please note that we do not concur with your proposed revision to this paragraph as stated in bold, "... *by Umpqua and Central Pacific Bank.* ***B.B., LLC will not agree to a claw back of face value and request a permanent principal write-down."***

6. Interest Going Forward. The interest rate commencing upon the effective date of the Agreement and continuing until the Loans are fully repaid shall be the quarterly LAIF rate in effect from time to time plus two percent (2%). Interest shall be compounded on a monthly basis. Interest shall be deferred until and payable on the Repayment Date (defined below). Please note that we do not concur with your proposed revision to the interest rate as stated in bold, "...*time to time* ***plus one and one quarter percent (1.24%).*** *Interest shall be..."*

7. Accrued Interest. Payment of interest that has accrued under the terms of the documents executed in connection with the Loans prior to the effective date of the Agreement shall be deferred until and payable on, the Repayment Date. The Successor Agency will provide a calculation of the estimated amount of interest accrued to date. Please clarify your comment "B.B., LLC position is that all interest be waived until a new agreement is in place."

8. Loans Repayment Date. All principal and interest, including interest accrued prior to the effective date of the Agreement, shall be due and payable on the date (Repayment Date) which is the earliest of: (i) the expiration of the term of the Agreement (as such may be extended pursuant to the terms of the Agreement), (ii) the date upon which construction financing closes for the first phase of the project to be developed on the Property or part thereof, and (iii) the occurrence of an event of default by B.B., LLC or other signatories of the Agreement.

9. Pre-Development Cost Trust Account. By no later than November 30, 2013 Borrower shall deposit into a trust account held by Successor Agency the sum of Three Hundred Thousand Dollars ($300,000). Such funds shall be used to pay for Placer County and Tahoe Regional Planning Agency permit application fees, entitlement processing, and environmental consultant fees. Any funds remaining in such account at the expiration or termination of the Agreement shall be applied toward the outstanding balance of the Loans. Upon full drawdown of Trust Account funds, B.B., LLC shall replenish the Account as required to ensure sufficient funding is provided at the sole discretion of the Successor Agency. Please note that Oversight Board members stated that this is a required term, indicated their desire for BBLLC concurrence prior to negotiating an Agreement and requested confirmation of B.B.,LLC's position on this term at or prior to the July Oversight Board meeting. It is important to recognize that set aside of funds in this manner is routinely required as part of a development application.

10. Property to Remain Assembled for Development as a Unified Project. No portion of the Property may be sold, or conveyed by ground lease or otherwise, without the Successor Agency's prior written consent, which consent may be withheld in Successor Agency's sole discretion. Please note that Oversight Board members stated that this is a required term, indicated their desire for BBLLC concurrence prior to negotiating a workout agreement and requested confirmation of B.B.,LLC's position on this term at or prior to the July Oversight Board meeting.

11. Option to Purchase. The Successor Agency shall have an option to purchase the Property. The exercise price shall be the lesser of Four Million Seven Hundred Fifty Thousand Dollars ($4,750,000) or the outstanding principal balance payable under the Loans at the time of exercise. The Successor Agency may pay the option price via a credit toward the outstanding balance of the Loans. The option shall be assignable in the discretion of the Successor Agency. The option shall be exercisable upon the occurrence of an event of default under the Agreement, including without limitation, the failure to make tax or loan payments when due, the failure to meet specified development milestones, or the violation of any other requirements under the Agreement or the Loan documents (other than as expressly modified by the Agreement). Clarification of your response as the statement provided in your June 18, 2013 letter is unclear, ***"B.B., LLC will not agree to this in its entirety".***

12. Development Pro Forma. No later than July 15, 2013 ~~June 30, 2013~~, B.B., LLC shall provide Successor Agency with a detailed development pro forma, including development budget and proposed sources of financing ~~and uses,~~ for the project proposed to be developed on the Property. In addition, the Oversight Board has requested that you provide a predevelopment budget including estimated professional fees, costs to secure permits and entitlements, prepare plans, and including costs incurred to date.

13. Assignment of Plans and Studies. In the event of default under the Agreement, the Successor Agency shall succeed to the ownership of all plans, studies and reports prepared in connection with the proposed development of the Property. The Agreement will include an assignment of such rights.

14. Development Milestones. The Agreement shall require compliance with the following development milestones:

January 31, 2014 ~~November 30, 2013~~	Submit complete application to TRPA and County for environmental review.

January 31, 2016 ~~November 30, 2015~~	Environmental review anticipated to be completed with Planning Commission and Board of Supervisor Hearings for entitlements scheduled.
January 31, 2017 ~~December 30, 2016~~	Submit construction plans to County for review. (Within 12 months following certification of EIR/EIS)

We do not concur with your proposed language that would require the County to pursue an Area Plan as a condition of B.B., LLC performance under an Agreement. While the County is pursuing this work, B.B., LLC is not limited from pursuing an application for amendment of the existing plan if deemed important for the schedule.

15. Additional Requirements. Compliance with all other terms of the Loan Documents will be required. This includes, without limitation, requirements relating to insurance, property maintenance, and provision of cash flow and other financial information to the Successor Agency. The Successor Agency's advance written approval shall be required for all contracts, agreements, rental agreements and leases that are not terminable upon 30 days' notice. Without exception, all residential and commercial tenants must be provided with a move-in notice in form approved by the Successor Agency and that includes information regarding potential relocation benefits and waiver thereof to the extent permitted by applicable law. Please note that we do not concur with your proposed revision to this paragraph as stated in bold, ***"....rental agreements and leases that exceed one (1) year of which approval shall not be reasonable withheld or delayed. Should B.B., LLC not receive comment or approval within 10 days of written request, such request shall be deemed acceptable."***

Thank you for your letter and review and comment to this correspondence. I have taken steps to initiate a meeting for the week of July 8th and again request your response to this letter by July 8 at 8AM. Please contact me at (530) 889-4030 if you have questions regarding this letter.

Sincerely,

Placer County Successor Agency

Allison Carlos
Successor Agency Official, Designee

Cc: David Boesch, County Executive Officer
Sue Bloch, Burke, Sorensen, Williams
Mark S. Carlquist, Esq. mark@carlquistlaw.com