MEMORANDUM

TO: Oversight Board

FROM: Tiffany Bohee, Executive Director

SUBJECT: Public Comment Session for the Due Diligence Review of Non-Housing Assets, required under Sections 34179.5 and 34179.6 of the Health and Safety Code

EXECUTIVE SUMMARY

As part of Redevelopment Dissolution Law, Section 34179.5 of the California Health and Safety Code requires that the Successor Agency ("Agency") employ a licensed accountant, with expertise and experience in local government accounting, approved by the county auditor-controller, to conduct a due diligence review ("DDR") to determine the unobligated balances available for transfer to taxing entities. With the approval of the City's Controller, the Agency engaged Macias Gini & O'Connell LLP ("MGO") to conduct the DDR as required. The DDR was submitted electronically to the Oversight Board, the Department of Finance ("DOF"), the State Controller's Office ("SCO"), and the City Controller ("Controller") on December 17, 2012. A hard copy of the DDR was also mailed to Oversight Board members the following day. After reviewing the data provided by the Agency and performing the required procedures, MGO has determined in the DDR that no funds are available for allocation to affected taxing entities. The public has the opportunity to comment on the DDR at a public session of the Oversight Board at least five days prior to the Oversight Board's final action. Section 34179.6 (c) of the California Health and Safety Code requires the Oversight Board to review, approve, and transmit, by January 15, 2013, to DOF and the City Controller "the determination of the amount of cash and cash equivalents that are available for disbursement to taxing entities" as determined according to the DDR methodology.

DISCUSSION

Background

AB 1484 requires that the DDR be separated into two submissions to the Oversight Board: the first submission relates to the housing assets of the former Redevelopment Agency; the second relates to all other assets that remain with the Successor Agency. The Due Diligence Review for the Low and Moderate Income Housing Fund ("LMIHF DDR") was approved by the Oversight Board and submitted to DOF on October 12, 2012. In the LMIHF DDR MGO determine that the entirety of the LMIHF was transferred from the Redevelopment Agency to the City as Housing Successor Agency on February 1, 2012, and as a result of that transfer, and given that all funds were encumbered by enforceable
obligations, there were no funds available for distribution to affected taxing entities. DOF rejected that determination and claimed that $110 million should be remitted to the Controller for distribution to taxing entities. The Agency appealed that determination through DOF’s Meet & Confer process. On December 14, 2012 DOF sent two letters regarding their determination. In the first letter, they upheld their earlier determination, but reduced the amount to be distributed to $107 million. In the second letter DOF advised the Agency that it will not pursue any penalties if the funds in question are not remitted, pending an additional review to determine what funds may or may not be available for distribution to taxing entities. The Controller has responded to DOF’s letters, acknowledging that no funds will be distributed at this time, and Agency staff will be working with the Controller and DOF to determine the appropriate next steps and timeframe for the additional review.

The Redevelopment Dissolution Law, as amended by AB 1484, requires the Successor Agency to submit the Due Diligence Review of the Non-Housing Assets (the “Review”) to the Oversight Board, DOF, SCO, and the Controller by December 17, 2012. A public comment session must be held at least five business days before the Oversight Board takes action on the Due Diligence Review. An Oversight Board approved Review must be transmitted to DOF and the City Controller by January 15, 2013.

Agreed Upon Procedures

In performing the Review, MGO performed the procedures that were agreed upon by DOF and SCO (the “Agreed Upon Procedures”) for the non-housing assets of the Successor Agency. In summary, the Review found that the non-housing assets totaled $431 million as of June 30, 2012, and that:

- $198 million are legally restricted by debt covenants or governmental restrictions,
- $217 million are non-cash assets (e.g. physical assets),
- $6.3 million are legally restricted for the funding of an enforceable obligation, and
- $9.7 million are needed to satisfy ROPS payments for Fiscal Year 2012-2013

After deducting the restricted funds, the non-cash assets, and ROPS payments for this fiscal year, there are no funds remaining to be remitted to the County for disbursement to taxing entities.

Under the Due Diligence Review required under Sections 34179.5 and 34179.6 of the California Health and Safety Code, and per the Agreed Upon Procedures, MGO reviewed the following information. The specific procedure performed, and the attachments showing the relevant data, are referenced below:

- **Procedure 1**: Value of assets transferred from the former redevelopment agency to the Successor Agency on or about February 1, 2012
- **Procedure 2**: Value of assets transferred after January 1, 2011 through June 30, 2012 by the Redevelopment or Successor Agency to the City and County (excluding
payment for goods and services) with documentation of enforceable obligations related to the transfer (Attachment C);

- **Procedure 3:** Value of assets transferred after January 1, 2011 through June 30, 2012 by the Redevelopment or Successor Agency to any other public agency or private party (excluding payment for goods and services) with documentation of enforceable obligations related to the transfer;

- **Procedure 4:** Accounting information related to balances, assets and liabilities for FY 2010-11 and 2011-12 (Attachment D);

- **Procedure 5:** Listing of asset balances as of June 30, 2012 as compared to accounting records (Attachment E);

- **Procedure 6:** Listing of asset balances with information and documentation of restrictions of such balances such as unspent bond proceeds, grant proceeds, and other legal restrictions (Attachment F);

- **Procedure 7:** Listing of non-liquid (e.g. physical) assets with information on valuation methodology (Attachments G & G1);

- **Procedure 8:** Listing of asset balances as of June 30, 2012 that are restricted for the funding of enforceable obligations, with projections of spending requirements and future revenues (Attachments H & H1);

- **Procedure 9:** Listing of payments needed pursuant to the ROPS II (July-December 2012) and ROPS III (January-June 2013) (Attachments J & K);

- **Procedure 10:** Computation of the balance available for distribution to taxing entities (Attachment B);

- **Procedure 11:** Representation letter from the Successor Agency.

**MGO’s Determination**

After reviewing the information provided by the Agency and performing the Agreed Upon Procedures, MGO determined that cash balances as of June 30, 2012 were either restricted by debt covenant or other governmental restrictions, or are restricted for the funding of enforceable obligations and payments through ROPS II and III. As a result, there are no funds remaining to be remitted to the County for disbursement to the taxing entities.

**NEXT STEPS**

Per AB 1484, a public comment session must be held at least five business days prior to the Oversight Board taking action on the Review. The public comment session will take place at the meeting of January 7, 2013, and the Review will come before the Oversight
Board for its approval at the meeting on January 14, 2013. Representatives from MGO will present their finding and will be available for questions on January 7. The Review has been made available to the public on the Oversight Board website and the Successor Agency website, and was transmitted to DOF, SCO and the City Controller concurrent with the submission to the Oversight Board.

(Originated by Sally Oerth, Deputy Director)

Tiffany Bohee
Executive Director