City of Culver City, California

Agenda Item Report

Meeting Date: 10/08/2012	Item Number: C-1
BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE CULVER CITY REDEVELOPMENT AGENCY AGENDA ITEM: Authorization of Transmittal of the Due Diligence Review for the Low and Moderate Income Housing Fund to the Oversight Board in Accordance with Health and Safety Code Section 34179.5	
Contact Person/Dept.: Jeff Muir, Finance	Phone Number: (310) 253-5865
Fiscal Impact: Yes [X] No []	General Fund: Yes [] No [X]
Public Hearing: [] Action Item: []	Attachments: []
Commission Action Required: Yes [] No [X]	Date: ________________
Public Notification: (E-Mail) Meetings and Agendas – Successor Agency (10/04/12)	
Department Approval: Jeff Muir (10/04/12)	Successor Agency General Counsel Approval: Carol Schwab (by H. Baker) (10/04/12)
Chief Financial Officer Approval: Jeff Muir (10/04/12)	Executive Director Approval: John Nachbar (10/04/12)

RECOMMENDATION:

That the Successor Agency Board authorize the transmittal of the Due Diligence Review for the Low and Moderate Income Housing Fund to the Oversight Board for approval pursuant to Health and Safety Code Section 34179.5.

BACKGROUND / DISCUSSION:

Pursuant to Health and Safety Code Section 34179.5, each successor agency must employ a licensed accountant, approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities.

Each review must determine the net balance of the Low and Moderate Income Housing Fund (the "LMIHF") and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities as of June 30, 2012 (the "Due Diligence Review"). In summary, such amount is determined by determining the total value of assets and cash and cash equivalents in the LMIHF and subtracting the following Restricted Assets: (1) restricted funds, (2) assets that are not cash or cash equivalents, (3) amounts that are legally or contractually dedicated or restricted for the funding of an enforceable obligation, and (4) amounts that are needed to satisfy obligations that will be put on the Recognized Obligation Payment Schedule ("ROPS") for the current fiscal year. Also, the amount determined to be available for allocation to taxing entities includes the value of assets, cash and cash equivalents transferred after January 1, 2011 through June 30, 2012 by the former redevelopment agency or the successor agency to the city, another public agency or private person if an enforceable obligation to make that transfer did not exist. The Due Diligence Review documents the Restricted Assets and provides the respective amounts, sources and purposes for which the Restricted Assets should be retained.

Health and Safety Code Section 34179.6 requires each successor agency to submit the Due Diligence Review to the oversight board for the oversight board's review and approval.

Upon receipt of the Due Diligence Review, the oversight board must convene a public comment session to take place at least five business days before the oversight board holds the approval vote. The oversight board also must consider any opinions offered by the county auditor-controller on the review results submitted by the successor agency.

By October 15, 2012, the oversight board must review, approve, and transmit the Due Diligence Review to the State Department of Finance ("DOF") and the county auditor-controller. The oversight board may adjust any amount provided in the review to reflect additional information and analysis. The review and approval must occur in public sessions. The oversight board may request from the successor agency any materials it deems necessary to assist in its review and approval of the determination.

Section 34179.6 empowers the oversight board to authorize a successor agency to retain the Restricted Assets.

The DOF must complete its review of the Due Diligence Review no later than November 9, 2012, and must notify the oversight board and the successor agency of its decision to overturn any decision of the oversight board to authorize a successor agency to retain Restricted Assets. The DOF must provide the oversight board and the successor agency an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the oversight board. The successor agency then has the option to meet and confer with DOF to discuss any modifications.

By December 1, 2012, the county auditor-controller must provide DOF a report specifying the amount submitted by each successor agency from the LMIHF, and specifically noting any successor agency that failed to remit the full required amount.

Section 34179.5 also requires a similar review of all other funds and accounts held by the successor agency to determine unobligated balances available for transfer to taxing entities. The review for all other funds and accounts must be completed by December 15, 2012 and the county auditor-controller has an April 20, 2013 deadline to provide DOF the report specifying the amount submitted by each successor agency from all other funds and accounts, and specifically noting any successor agency that failed to remit the full required amount.

Upon full payment of the amounts determined in the Due Diligence Review and the subsequent review conducted for all other funds and accounts, payment of the "surplus" tax revenues due on July 12, 2012, and any unpaid or underpaid pass through payments owed for Fiscal Year 2011/2012, DOF will issue to the successor agency, within five business days, a finding of completion of the requirements of Section 34179.6.

The Oversight Board held the required public comment session regarding the draft Due Diligence Review on September 27, 2012. The final version of the due diligence review will be an attachment to this report. It will be distributed separately from the agenda packet and posted on the City's website when received.

The firm of Macias Gini O'Connell (MGO) performed the Due Diligence Review (DDR) for the Successor Agency. As part of the review, MGO reviewed the asset balance of the Low Moderate Income Housing Fund (LMIHF) as of January 1, 2011 and January 31, 2012, then reviewed the asset balance of the former LMIHF of the Successor Agency as of February 1, 2012 and June 30, 2012. MGO also reviewed the legal documentation and accounting records related to assets transferred from the LMIHF to the City and/or Culver City Housing Authority after January 1, 2011.

The purpose of the review is to identify any unencumbered former LMIHF monies available to return to the County to redistribute to taxing entities. As a result of this review, a total of $279,055 was identified as unencumbered and available for redistribution (DDR Exhibit F).

Other important findings contained in the DDR as attachments include:

- Dollar value of all housing assets transferred from the former RDA to the Successor Agency on 2/1/2012 (DDR Exhibits C & D): **$3,538,348**

- Dollar value of housing assets, cash, and cash equivalents transferred by the former RDA or Successor Agency to the City of Culver City (including transfers to the Culver City Housing Authority as the Housing Successor) between January 1, 2011 and June 30, 2012 (DDR Exhibits A & B): **$84,831,039**

- Dollar value of housing assets, cash, and cash equivalents transferred by the former RDA or Successor Agency to any public or private entity other than the City/Housing Authority between January 1, 2011 and June 30, 2012: **$0**

It should also be noted that the DOF disallowed the transfer of the Globe project that was included in the Housing Asset Transfer Form. The Globe project includes $3,148,770 in land and $1,262,500 in encumbered funds that are currently in an escrow account with Habitat for Humanity of Greater Los Angeles. The Successor Agency does not concur with the findings and has requested a "meet and confer" session with the Department of Finance. As of the date of this report, a "meet and confer" session has not been scheduled.

FISCAL ANALYSIS:

The report reflects a payment due to taxing entities of $279,055. This payment will be remitted to the County Auditor-Controller upon approval by the Oversight Board.

ATTACHMENTS:

1. Due Diligence Review of the Low and Moderate Income Housing Fund. (To be provided upon receipt.)

MOTION:

That the Successor Agency Board:

<u>Authorize the transmittal of the attached Due Diligence Review for the Low and Moderate Income Housing Fund to the Oversight Board for approval pursuant to Health and Safety Code Section 34179.5.</u>