DEPARTMENT OF FINANCE

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April 20, 2013

Mr. Jeff Crechriou, Acting Economic Development Manager
City of Marina Successor Agency
211 Hillcrest Avenue
Marina, CA 93933

Dear Mr. Crechriou:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Marina Redevelopment Successor Agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on February 4, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- The total amount of assets held by the Agency as of June 30, 2012 has been adjusted by $93,451. This amount reflects the difference between the DDR's reported figure of Cash and Investments as compared to the City's reported Cash and Investments reported in the City of Marina's (City) Consolidated Annual Financial Report as of June 30, 2012.

- Transfers totaling $637,486 are not allowed. The Agency transferred cash in the amount of $586,326 to the City on January 31, 2012 without sufficient supporting documentation, and transferred $51,160 to the City on June 9, 2011 for a loan payment. HSC section 34171 (d) (2) 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, unless issued within two years of the RDA's creation date or for the issuance of indebtedness to third-party investors or bondholders.

- The request to retain $1,133,766 for the funding of enforceable obligations is not allowed. This adjustment consists of accumulated pass-through payments to the Monterey Peninsula Unified School District (MPUSD) and the Fort Ord Reuse Authority (FORA), and the loan repayments for the City loan and the Supplemental Educational Revenue Augmentation Fund (SERAF). HSC section 34183 (a) (1) states that the county auditor-controller will

make the required pass-through payments starting with the July through December 2012 ROPS. Therefore, the MPUSD and FORA pass-through payments are not enforceable obligations requiring the retention of funds. Furthermore, HSC section 34171 (d) (2) 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, unless issued within two years of the RDA's creation date or for the issuance of indebtedness to third-party investors or bondholders. Therefore, the loan repayments to the City and the SERAF are also not enforceable obligations requiring the retention of funds.

- The request to retain $1,039,485 to satisfy ROPS for 2012-2013 fiscal year has been adjusted by $381,381. Based on our review of your DDR, the Agency has not adequately proven there will be insufficient property tax revenues to pay for its obligation obligations as they become due. HSC section 34179.5 (c) (5) (D) states that a successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements.

  If a DDR review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations. It is not evident the thorough analysis required by HSC section 34179.5 (c) (5) (D) was conducted. Further, it is not evident that future property tax revenues will be insufficient.

  Should a deficit occur in the future, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h), or subordinating pass-through payments pursuant to HSC section 34183 (b). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation if a deficiency were to occur.

If you disagree with Finance's adjusted amount of OFA balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's OFA balance available for distribution to the affected taxing entities is $1,879,567 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(366,517)
Finance Adjustments		
Add:		
Total amount of assets held as of June 30, 2012	$	93,451
Disallowed transfers	$	637,486
Request to restrict funds for enforceable obligations	$	1,133,766
Request to retain balances not supported	$	381,381
Total OFA available to be distributed:	**$**	**1,879,567**

Absent a Meet and Confer request, 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 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 section 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 Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Doug Yount, Interim City Manager
Ms. Julie Aguero, Auditor Controller Analyst II, County of Monterey
California State Controller's Office