

City Clerk



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**Audit of  
City of Milwaukee  
Development Contract  
Management and  
Administration**

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**W. MARTIN MORICS**  
City Comptroller  
City of Milwaukee, Wisconsin

March 2003

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Office of the Comptroller

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March 11, 2003

To the Honorable  
the Common Council  
City of Milwaukee

Dear Council Members:

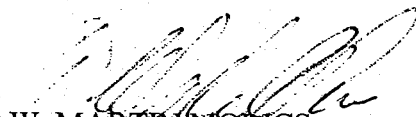
The attached report summarizes the results of our Audit of City of Milwaukee Development Contract Management and Administration. The objective of the audit was to evaluate the adequacy of management and enforcement of City of Milwaukee financial considerations and other rights and obligations for economic development contracts. The audit evaluated Department of City Development monitoring activities for development contracts executed by the City, the Redevelopment Authority of the City of Milwaukee and the Milwaukee Economic Development Corporation. The audit included reviews of Department of City Development files related to selected development projects, reviews of Emerging Enterprise Program reports regarding disadvantaged business enterprise and Residence Preference requirements, as well as interviews of Department of City Development, City Attorney's Office, and Emerging Enterprise Program staff.

The audit disclosed that development contract administration procedures are generally adequate to protect the City's financial interests. City financial interests are protected during construction. Improvements are needed in retention of necessary documentation to promote consistent enforcement over the years covered by the contracts. With administrative improvements made over the past 1-2 years, the Department of City Development is currently adequately monitoring required payments on development loans to promote prompt repayment. Risks inherent in development projects are mitigated by a number of effective contractual provisions and administrative procedures. Improved follow up is needed to ensure that evidence of filing of required Uniform Commercial Code financial statements is included in loan files. Department of City Development procedures are generally adequate to ensure that physical construction objectives are achieved. Human resource objectives for development contracts were achieved in some but not all cases. In most cases, development projects are administered by the Redevelopment Authority, due to statutory provisions allowing the Redevelopment Authority greater flexibility in certain development activities. The audit makes nine recommendations for improvements in development contract monitoring procedures.

Audit findings and recommendations are discussed in the Audit Conclusions and Recommendations section of the report, followed by the Department of City Development response.

Appreciation is expressed for the cooperation extended to the auditors by the staff of the Department of City Development, the City Attorney's Office and the Emerging Enterprise Program.

Very truly yours,



W. MARTIN MORICS  
Comptroller

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**AUDIT SCOPE AND OBJECTIVES**

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## **Audit Scope and Objectives**

The objective of the audit was to evaluate the adequacy of City and related agency management and enforcement of City financial considerations and other rights and obligations for economic development contracts. The audit evaluated Department of City Development (DCD) monitoring activities for development contracts executed by the City, the Redevelopment Authority of the City of Milwaukee (RACM) and the Milwaukee Economic Development Corporation (MEDC). The audit included an examination of development projects in six Tax Incremental Districts (TIDs):

1. TID-22 Brewers Point Apartments project (City/RACM)
2. TID-23 City Hall Square Apartments and 789 North Water Street projects (City/RACM)
3. TID-24 Compo Corporation project (City/RACM/MEDC)
4. TID-31 Hotel Metro project (City/RACM)
5. TID-37 Grand Avenue project (City/RACM)
6. TID-42 Capitol Court project (City/RACM)

Audit conclusions are based on the examination of the above development projects. The audit included reviews of DCD files related to the development projects, reviews of Emerging Enterprise Program (EEP) reports regarding disadvantaged business enterprise (DBE) and Residents Preference requirements, as well as interviews of DCD, City Attorney's Office and EEP staff. Since audits of business improvement districts were issued in 1998 and 1999, the audit did not include development projects administered through Business Improvement Districts.

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**ORGANIZATIONAL AND FISCAL  
IMPACT**

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## **Organizational and Fiscal Impact**

One of DCD's objectives is to support investments that lead to retaining and creating jobs and tax base in the City of Milwaukee. In support of this objective, the City has entered into over 40 Tax Incremental District (TID) and Business Improvement District development projects since 1985. Budgeted development contract expenditures for this program for 2002 totaled \$29,600,000. Historically, City development projects are administered by RACM or MEDC.

RACM was created by the City under State of Wisconsin Statutes. Under the statutes RACM has certain powers that differ from the City and expedite project implementation. RACM's statutory powers are particularly useful for development projects in TIDs. RACM focuses mainly on large commercial real estate development projects.

MEDC is an independent nonprofit corporation. MEDC specializes in industrial land development and small business "gap" lending to supplement private equity and debt financing of existing business expansion projects. DCD staff stated that MEDC has been involved in less than 10 percent of TID projects in recent years. DCD staffs both RACM and MEDC.

To facilitate development projects, the City often makes loans to developers through RACM or MEDC. These development loans are generally subordinate (2<sup>nd</sup> mortgages) to a primary financing. The current outstanding balance of TID development project loans made through RACM is \$16,241,200. The current outstanding balance of TID development project loans made through MEDC is \$2,795,500.

Approximately 5-7 DCD staff members are responsible for managing development projects. While these individuals have different job titles, they are generally referred to as project managers. Their duties include negotiating and executing development contracts, ensuring that the City and developers fulfill their respective responsibilities under the contracts and following up when loan payments are late or required documents are not submitted. Individuals who perform similar duties regarding MEDC development loans are referred to as loan officers.

Development loans made through RACM or MEDC are recorded on an MEDC loan billing and collection system. MEDC loan officers are responsible for follow up on



MEDC loans having late payments.

RACM has established a central loan administration section responsible for billing and collection of RACM loans using data from the MEDC system. The loan administration section maintains files, which include contracts and documents, related to development projects with RACM loans. RACM project managers are responsible for follow up on problems with RACM loans such as late payments.

Contracts related to development projects that do not include loans are kept in DCD's central contract file.

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**AUDIT CONCLUSIONS AND  
RECOMMENDATIONS**

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## **Audit Conclusions and Recommendations**

### **I Development Contract Administration**

- A. Based on the TID projects sampled, it appears that development contract administration procedures are generally adequate to protect the City's financial interests.**

It appears that City financial interests are protected during construction. However, improvements are needed in retention of necessary documentation to promote thorough and consistent enforcement over the years covered by the contracts.

The Common Council authorizes project plans and contracts for development projects. In the past, a two step process was used to approve development projects. The Common Council first approved a project plan and later approved the related development contracts. In the last 1-2 years, the Common Council has used a one step process. Now a development plan and a term sheet for City financial participation are approved at the same time, along with the authority for RACM to enter into development and loan agreements as appropriate. The advantage is that the time necessary to approve a project is reduced. However, if negotiations with a developer require changes in the basic terms of the contract, Common Council modification of the term sheet will be required.

The RACM board authorizes development contracts to which RACM is a party.

Each project is governed by contracts aimed at protecting the City's interests from inception through construction. Some strengths include the existence of mortgages, liens, required filing of Uniform Commercial Code (UCC) financing statements and personal guarantees. Formal loan agreements, promissory notes and development agreements which identify terms, default conditions and remedies are also strengths. Contracts and documents are drafted and/or reviewed by the City Attorney for RACM projects and by private attorneys representing MEDC for MEDC projects.

The City must approve project plans and verify the granting of all required building permits and occupancy permits. Copies of these documents were obtained for the projects reviewed. The plans for audited projects included evidence of approval by the Commissioner of City Development or RACM.

The Comptroller's Office generally has the opportunity to review and comment on major development projects before Common Council approval of project plans and contracts. For such projects, the Comptroller provides a report addressing the likelihood of project success and the extent that proposed City financial assistance is needed.

Contracts include specific requirements for loan disbursements, including the following examples:

1. Generally, RACM loan funds are to be disbursed pro rata with the primary financing.
2. Generally, the City is to share in any unspent surplus project funds.
3. For certain projects, completion conditions are imposed. For example, a TID-37 RACM participation loan was not paid out until the project was substantially complete.
4. In some cases, the loans are to be disbursed by title companies, such as for TIDs 23, 31 and 37.

At loan closings for projects with loans to developers from the City through RACM, the City receives executed copies of all contracts to which the City and/or RACM is a party. City staff indicated that key documents related to third party commitments are reviewed at closings. These include proof of first mortgage financing, proof of developer equity in the project, construction contracts, etc. City Attorney and DCD staff review evidence that these requirements are met but do not retain the documentary evidence.

DCD maintains a central file of all contracts in which the Housing authority of the City of Milwaukee (HACM), RACM, or the City are parties. This file includes contracts for development projects that do not involve loans. Contracts related to development projects with loans are kept in other file locations.

**B. DCD is monitoring required payments on development loans to promote prompt repayment.**

**RACM has made significant improvements in loan administration in recent years.** A loan administration section staffed by a consultant and a DCD professional staff person has been created. This section maintains the files containing contracts and related documents for development projects with RACM loans. **RACM ensures that required**

**documents such as financial statements and insurance certificates are obtained in a timely manner.**

RACM and MEDC loans are recorded on an MEDC loan billing and collection system from Metavante Data Systems. RACM loan administration staff mail loan payment invoices generated by the MEDC loan system and receive loan payments. Loan payments are recorded on the MEDC system and on spreadsheets maintained by RACM loan administration staff.

RACM loan administration staff prepare semiannual loan status reports on all RACM loans for DCD project managers. An example report is attached as Exhibit A. These reports provide summaries of the loan payment status, the financial status of the project including analysis of borrower financial statements, and necessary follow up actions if any. Project managers review the reports and follow up with borrowers as needed. Project managers also take necessary actions when loan administration staff notify them of late payments or missing documentation.

A report of past due MEDC loans (Exhibit B) is generated daily and distributed to MEDC loan officers for necessary follow up action.

A report on past due loans as of the end of the previous month (Exhibit C) is provided to the MEDC loan committee at its monthly meeting. This report includes short explanations of actions taken regarding loans with payments more than 30 days overdue. Loan officers attend loan committee meetings to answer any questions.

The MEDC board reviews loan loss reserves twice a year. At those meetings, board members are provided with reports (Exhibits D and E) listing all loans, their rating on MEDC's loan rating system, and loan officers' recommended loan loss reserves.

Five of the six TIDs examined included developer loans. Loan files were reviewed for four of the TID loans and found to be well organized and complete. Payments were being made as required. The fifth loan has been paid in full.

For the audit, DCD provided reports on the status of all development loans made through RACM and MEDC. A limited audit examination of these reports uncovered no City development loans excluded from these status reports. Also, while unaudited, these loan status reports indicate that no TID development loan payments are delinquent at the

present time.

- C. There are risks inherent in development projects and related City/RACM participation. The risks affecting the City/RACM are mitigated by a number of effective contractual provisions and administrative procedures. Improved follow up is needed to ensure that evidence of filing of UCC financial statements is included in loan files.**

Loans to developers are secured by liens on real estate or on equipment and other borrower assets. Liens on real estate are secured by mortgages. To protect the City's interest in the property, mortgages must be recorded with the county register of deed's office. The audit disclosed that, for the projects examined, all mortgages were recorded with the register of deeds. To protect the City's financial interest in assets other than real estate, UCC financing statements must be filed with the Wisconsin Department of Financial Institutions. UCC financing statements were used in two of the development projects audited. In one case, the audit found inadequate documentation of the filing of UCC financing statements.

In order to remain effective, filings of UCC financing statements must be refiled (renewed) every five years. None of the UCC financing statements for the projects examined have yet reached their renewal dates. The RACM loan administration section keeps UCC financing statements in a binder along with evidence of current insurance. RACM staff stated that this binder is reviewed periodically and that UCC filings will be renewed when due. Loan files are also reviewed when semiannual status reports are prepared. These procedures appear adequate to ensure that UCC financing statements will be renewed when due.

Procedures are adequate to ensure that borrowers maintain required insurance coverage. Loan agreements require borrowers to provide evidence of current property and liability insurance. Current insurance certificates are kept in a binder that is reviewed periodically. The audit disclosed that this binder contained current insurance certificates for the projects examined.

For TID-37, copies of insurance documents showed a 10 day cancellation period rather than the required 30 days.

Procedures are adequate to ensure that required financial statements are obtained from

borrowers. Loan agreements require borrowers to provide annual financial statements and, in some cases, quarterly financial statements. The audit disclosed that loan files include the required financial statements with one exception. TID-24 required annual financial statements were obtained but quarterly statements were not obtained in every instance. Quarterly financial statements were subsequently received when requested by the Department.

As noted earlier, semiannual status reports prepared by RACM loan administration staff include an analysis of project financial statements.

### **Recommendation 1**

The disbursement of loans or grants by a title company or lead (first mortgage) lender provides assurance that contractual requirements are met before funds are disbursed. A title company or lead lender should disburse all development loans and grants.

### **Recommendation 2**

- a) At closing, loan files should include evidence that all material contractual requirements were met at closing, including required contracts/documents to which the City is not a party. While the volume of documents may preclude obtaining copies of all contracts, there should be evidence that City staff have performed a sufficient document review to ensure that all collateral project requirements have been satisfied. This could be done by obtaining an extract (title page, signature page) of all documents and/or by means of a checklist including all required documents.
- b) Given the existence of the above checklist, an appropriate DCD project manager should then sign and date the checklist to certify that all economic development project requirements have been met, noting any exceptions for future follow up. City Attorney staff could sign and date the checklist to certify that all legal requirements have been met. This could be useful if future questions of contract compliance should arise.

### **Recommendation 3**

- a) Soon after a development contract is executed, the responsible project manager should prepare a checklist or "tickler file" to identify the project requirements throughout the life of the project. This checklist would serve as a guide for necessary project monitoring requirements in future years as these items become due. The checklist should be filed with the development contract in DCD's central contract file or, for development projects that include loans, loan administration section files. As development contracts can cover periods of 20 years or more, this checklist will be of use, particularly, as project managers are reassigned, retire, etc.
- b) Currently, development project documents may be filed in the central contract file, loan administration section files, or kept by project managers during project construction. To ensure that necessary documents are available to staff monitoring projects in future years, DCD should establish a central locator index of documents for each development project. Exhibit F provides examples of documents to be included in the central locator index.

### **Recommendation 4**

DCD loan administration personnel should follow up to ensure that all UCC financing statements are filed with the Wisconsin Department of Financial Institutions, in a timely manner. Copies evidencing filing should be included in loan files.

## **II. Achievement of Development Project Objectives**

### **A. The audit disclosed that DCD procedures are generally adequate to ensure that physical construction objectives are achieved.**

Development and loan agreements require City approval of plans for the projects. The audit obtained copies of approved plans for the projects audited.

Loan agreements require that documentation of work done be presented for loan disbursements. DCD project managers review payment requests prior to disbursement. In cases where loan disbursements are made by a title company, the title company is responsible for reviewing documentation of the work before making disbursements.



DCD managers stated that they made periodic site visits to substantiate the condition of improvements and to ensure that the project is being built as required. DCD managers generally do not document these inspections or the results of the inspections unless they uncover problems.

The audit included limited physical observations of the facility improvements in TID-23, TID-31 and TID-42. These limited audit observations disclosed no noticeable exceptions to the physical construction plans for these TIDs.

**B. Some development contracts include human resource objectives involving Disadvantaged Business Enterprises (DBEs), Residence Preference, and job creation and retention. DBE and Residence Preference objectives were partially met. Employment objectives were not sufficiently reported and monitored to evaluate achievement.**

**DBE objectives were partially met.** Development contracts in some cases include requirements for developers to utilize disadvantaged business enterprises for a specified minimum percentage of the project cost. Five of the six TIDs audited included DBE requirements. These contracts also include provisions for waivers of DBE requirements in cases where available certified DBEs are insufficient to achieve the required participation. The Emerging Enterprise Program (EEP) is responsible for monitoring DBE participation in development contracts. DBE requirements were not achieved in three instances. EEP files contained no information regarding actions taken in those cases where DBE requirements were not met.

The level of DBE goal achievement was as follows for the five audited TID projects.

| <u>Project</u>                             | <u>Achievement Status –DBE Goal</u> |
|--|-------------------------------------|
| TID-22 Brewers Point Apartments            | Not met                             |
| TID-23 City Hall Square Apartments         | Not met                             |
| TID-23 789 North Water Street              | Met                                 |
| TID-31 Hotel Metro                         | Not met                             |
| TID-37 Grand Avenue-“Ivory Tusk”           | Met                                 |
| TID-42 Capitol Court (project in progress) | Goals Met to Date                   |

EEP has experienced significant staff turnover in recent years. Current EEP staff stated

that files contain no information concerning actions taken with regard to TID-22, TID-23 City Hall Square Apartments and TID-31 DBE requirements.

**Residence Preference requirements were partially met.** Development contracts in some cases include requirements for developers to utilize unemployed residents of the City's Community Development Block Grant (CDBG) area for a specified minimum percentage of worker hours on construction projects. The contracts include provisions for waivers of Residents Preference requirements in cases in which qualified and available unemployed residents of the CDBG area are insufficient to achieve the required participation. EEP is responsible for monitoring Residents preference in development contracts. Residents Preference requirements were not achieved in two of the three projects in which they were included. EEP files were incomplete for one of those projects.

TID-22, TID-37 and TID-42 included Residents Preference requirements. TID-23 and 31 required the Private Industry Council to be used as a first interview source for construction hires but did not set quantitative goals.

Documents in EEP files are unclear as to whether TID-22 Residents Preference goals were met. Documents received from EEP indicate that Residents Preference requirements for TID-42 are being met at the present time (construction still in process). Documents received from EEP indicate TID-37 Residents Preference goals have not been met to date. EEP staff stated that the TID-37 Residents Preference goals will probably not be met. They are working with the developer to determine alternative strategies in lieu of the Residents Preference requirement.

DCD staff stated that due to the specialized nature of the work required in development projects, Residents Preference goals are often difficult to achieve.

**Reporting and monitoring for employment objectives needs improvement.** The audit reviewed project plans and feasibility studies for the six TIDs for provisions related to job creation. The TID-22 and TID-37 project plans and feasibility studies contain no references to job creation or retention. The TID-23 project plan states that the TID will create new employment opportunities but does not define or quantify the extent of those opportunities. The TID-24 project plan states that the TID will create new industrial development and employment opportunities. In addition, a resolution authorizing an amendment to the TID-24 cooperation agreement providing for a loan to Compo

Corporation states that Compo expects to add 8 – 12 employees over the next year. The TID-24 file was the only one that included employment status reports. The TID-37 feasibility study states that the project will generate significant construction-related employment during its building phase and approximately 60 full time jobs in the operation of a hotel. The TID-42 project plan states that the project's benefits will include employment opportunities in the construction trades and that new job creation will take place in retail operations. The project plan estimates that between 1200 and 1900 new jobs will be created by the development.

DCD monitors job creation only when it is mandated in the development agreement. Job creation objectives for the projects audited were included in project plans and feasibility studies but not in development contracts. The project files contained no reports concerning actual job creation or retention. DCD staff stated that development agreements rarely mandate specific job creation activity. DCD does not monitor job creation objectives included in project plans and feasibility studies.

#### **Recommendation 5**

DCD managers should provide brief documentation in project files of the status of facility improvements at the time of each DCD inspection. Files should include a statement as of the end of construction stating that the improvements were constructed consistent with the development agreement, describing any amendments and exceptions. Material exceptions should be approved by the Common Council and RACM, or if approval is delegated to the DCD Commissioner, reported to RACM and the Common Council.

#### **Recommendation 6**

EEP should ensure that their files contain documentation of resolution in cases in which a developer does not meet DBE or Residents Preference requirements.

#### **Recommendation 7**

DCD should work with EEP to identify alternatives to Residents Preference requirements in instances where the need for specialized skills will make the achievement of Residents Preference requirements impossible or infeasible.

### **Recommendation 8**

DCD should monitor job creation and retention in City financed development projects. Toward this end, DCD should maintain documentation on the actual jobs created and/or retained at various points in time wherever such objectives are a part of a City or RACM project plan, feasibility study or development contract.

### **III. City and RACM Roles in Development Projects**

The prevalent practice generally dictates City financing with general obligation debt funded grants to the RACM through a cooperation agreement. RACM administers the development including any private loans through development and loan agreements with private entities.

DCD states that RACM is often involved because of its ability to declare an area "blighted", expediting land acquisition. The City Attorney's Office confirms this advantage, and also indicates that RACM is not subject to the competitive bidding practices required for City contracts. DCD staff also indicate that RACM is utilized because Wisconsin statutes governing TIDs do not explicitly specify developer loans as allowable TID expenditures. The statutes do, however, explicitly allow TID expenditures for grants to RACM, which RACM then uses for developer loans.

One issue concerns City policy regarding the return of RACM income to the City where such income is generated through the use of City funds or assets transferred to RACM. DCD staff indicated that for at least the last five years all TID cooperation agreements have required that developer loan repayments to RACM and property sales proceeds be transferred to the City regardless of when the TID closes. However, there is no official RACM policy or City resolution providing for continuation of this practice. Moreover, there is no City policy on the return of any other RACM income generated through the use of City funds or City transferred assets. The Comptroller's Office is currently working with DCD on how best to formalize this policy.

In some cases, for loans made by MEDC in TID projects with funds provided by the City, MEDC is allowed to retain repayments received after the related TID has been closed. DCD staff state that recent TID cooperation agreements between the City and MEDC

require loan repayments to be returned to the City both during and after the life of the TID.

**Recommendation 9**

The Common Council should consider adopting a formal policy requiring that all proceeds generated from assets or funds provided by the City to RACM or MEDC be returned to the City, subject to RACM debt service requirements and other disposition as required by Common Council resolution or by contract between the parties. Such a policy would formalize the current practice in TID projects, and expand it to all development projects.

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**EXHIBITS**

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Account Status Report

Computer # 933-1

2/19/03

XYZ Company, LLC  
Street address  
Milwaukee, WI.

Project manager: Dan McCarthy

Project summary: Construction and permanent financing for rehab of subject building. Office space on upper floors, with retail space on first floor.

Original loan amount: \$1,000,000 (dated 9/26/95, amended 10/13/00)

Current principal amount: \$953,234

Payment status: Current

Monthly payments were to have commenced upon completion of construction, but were deferred for 1 year due to negative cash flows per the loan agreement. Additional interest of 6% accrues on any deferred and unpaid payments. A late charge of 5% of the installment payment is due after 10 days beyond the payment due date. Payments are being made timely on a regular basis as agreed.

Collateral coverage: 70% loan to value

Appraisal by Jeff Jones dated 5/24/95 for \$5,870m. First mortgage of \$3.1mm.  
Cost overruns of approximately \$1mm were funded primarily by investors.  
The loan agreement was amended 10/13/00 to allow additional \$150m first mortgage financing.

Maturity date: 3/30/2015

Financial status: RACM now receives monthly financial statements from XYZ Company, LLC. on a timely basis. The company changed accounting firms which has resulted in more timely receipt of reports. Additionally, monthly statements are more accurate, with fewer adjustments needed in subsequent monthly reports. For the 12 months ending 12/31/01, XYZ Company reported a loss of \$331m (after depreciation of \$198m) on total revenue of \$2,111m. This represents improved results over the prior year when XYZ Company had a \$430m loss after depreciation of \$205m and total revenue of \$1,981m. Cumulative cash flow was \$38m before replacement reserves through 12/31/01. Marketing and administrative/general expenses are significantly above budget during the fourth full year of operation. Management anticipates a drop in expenses this year, with both increased rental rates for most major tenants, and increased demand for occupancy of remaining available space. Their 2003 budget projects total revenue of \$2,712m and breakeven operations before depreciation and replacement reserves. As of 11/30/02, ZYX Company reported a \$135m loss on revenues of \$2,305m which compares favorably to last year at this time and is near budget. Cumulative cash flow was a positive \$97m.

Action/Follow up: Received evidence of current hazard insurance coverage through 5/31/03.

Received final 2001 audit for XYZ Company, LLC. within 120 days of FYE.

Received final title insurance policy.

Received revised monthly cash flow report to follow definition in loan agreement

Proposal to restate/amend cash flow definition being reviewed.

Automated computer system is able to accommodate invoicing and tracking the regular monthly payments, but additional cash flow payments must be invoiced and calculated manually.

Review (ongoing) monthly financial and cash flow statements from XYZ Company for continued financial performance. 2002 audit due by 4/30/03.

Review annual cash flow for any additional payment due April 30 (none have been paid to date).





Status of MEDC Loan Portfolio as of: 10/31/02

| Current MEDC Loan Rating     | Company Name | 0-30 Days        | 31-60 Days       | 61-90 Days       | Over 90 Days     | Loan Balance 10/31/02 |                                |
|------------------------------|--------------|------------------|------------------|------------------|------------------|-----------------------|--------------------------------|
| IV                           | [REDACTED]   | \$365.09         | \$365.09         | \$365.09         | \$2,915.81       | \$32,540.22           | Bank foreclosure complete      |
| VII                          | [REDACTED]   | 2,195.00         | 2,195.00         | 2,195.00         | 13,170.00        | 237,281.19            | Receiver of property appointed |
| IV                           | [REDACTED]   | 593.89           |                  |                  |                  | 43,967.85             |                                |
| IV                           | [REDACTED]   | 589.67           |                  |                  |                  | 15,920.32             |                                |
| VII                          | [REDACTED]   | 569.61           | 569.61           | 569.61           | 2,419.46         | 59,778.93             | Sale in process.               |
| IV                           | [REDACTED]   | 141.19           | 141.19           | 141.19           |                  | 6,051.32              |                                |
| IV                           | [REDACTED]   | 543.00           |                  |                  |                  | 7,254.67              |                                |
| IV                           | [REDACTED]   | 421.93           |                  |                  |                  | 23,032.34             |                                |
| V                            | [REDACTED]   | 1,433.00         |                  |                  |                  | 80,133.03             |                                |
| V                            | [REDACTED]   | 1,000.00         | 50.00            |                  |                  | 24,783.03             |                                |
| IV                           | [REDACTED]   | 970.14           |                  |                  |                  | 39,685.89             |                                |
| VII                          | [REDACTED]   | 609.78           | 609.78           | 609.78           | 28,189.00        | 48,271.07             | Foreclosure in Process         |
| IV                           | [REDACTED]   | 255.36           |                  |                  |                  | 10,822.31             |                                |
| III                          | [REDACTED]   | 7,305.00         |                  |                  |                  | 364,323.98            | Workout in process             |
| V                            | [REDACTED]   | 110.00           | 110.00           | 55.00            |                  | 6,197.12              |                                |
| IV                           | [REDACTED]   | 530.14           |                  |                  |                  | 33,117.52             |                                |
| IV                           | [REDACTED]   | 3,866.56         | 3,866.56         | 3,866.56         | 7,733.12         | 101,537.79            |                                |
| IV                           | [REDACTED]   |                  |                  | 6,000.00         | 17,733.33        | 200,000.00            | Equity conversion in process.  |
| VII                          | [REDACTED]   |                  | 25,650.00        |                  |                  | 570,000.00            | Annual payment                 |
| VII                          | [REDACTED]   | 10,000.00        | 10,000.00        | 10,000.00        | 200.00           | 1,488,305.45          |                                |
| <b>Sub-Totals</b>            |              | <b>31,499.36</b> | <b>17,907.23</b> | <b>49,452.23</b> | <b>72,360.72</b> |                       |                                |
| <b>Total Amount Past Due</b> |              |                  |                  |                  |                  | <b>171,219.54</b>     |                                |
| <b>Total Balance</b>         |              |                  |                  |                  |                  | <b>3,393,004.03</b>   |                                |

Milwaukee Economic Development Corporation  
Milwaukee, Wisconsin

Exhibit D

Schedule of Loans Receivable  
MEDC -- Milwaukee Economic Development Corporation  
For the Quarter Ended June 30, 2002

| <u>Loan Rate</u> | <u>Name</u> | <u>Date of Loan</u> | <u>Amount of Loan</u> | <u>Interest Rate</u> | <u>Balance 06/28/2002</u> |
|------------------|-------------|---------------------|-----------------------|----------------------|---------------------------|
| III              | [REDACTED]  | 10/01/1985          | 100,000               | 10.50                | 33,079                    |
| III              | [REDACTED]  | 05/01/1986          | 55,000                | 7.67                 | 18,095                    |
| III              | [REDACTED]  | 06/01/1988          | 86,000                | 8.50                 | 41,791                    |
| VII              | [REDACTED]  | 09/09/1988          | 562,500               | 7.00                 | 401,759                   |
| III              | [REDACTED]  | 11/07/1988          | 43,000                | 6.00                 | 20,319                    |
| III              | [REDACTED]  | 12/01/1988          | 30,000                | 9.50                 | 5,119                     |
| III              | [REDACTED]  | 02/01/1989          | 40,000                | 9.00                 | 1,820                     |
| IV               | [REDACTED]  | 02/01/1989          | 52,000                | 9.50                 | 9,144                     |
| V                | [REDACTED]  | 01/01/1990          | 20,000                | .00                  | 10,410                    |
| IV               | [REDACTED]  | 01/01/1991          | 59,000                | 8.75                 | 16,782                    |
| III              | [REDACTED]  | 07/01/1991          | 48,000                | 8.25                 | 19,213                    |
| III              | [REDACTED]  | 08/01/1991          | 80,000                | 7.75                 | 23,282                    |
| IV               | [REDACTED]  | 11/01/1991          | 15,000                | 7.75                 | 6,223                     |
| IV               | [REDACTED]  | 11/01/1991          | 100,000               | 8.25                 | 41,601                    |
| IV               | [REDACTED]  | 03/01/1992          | 100,000               | 7.75                 | 44,622                    |
| III              | [REDACTED]  | 03/01/1992          | 39,200                | 8.25                 | 12,157                    |
| V                | [REDACTED]  | 04/01/1992          | 80,000                | 6.00                 | 27,395                    |
| III              | [REDACTED]  | 07/01/1992          | 51,000                | 7.75                 | 23,540                    |
| IV               | [REDACTED]  | 07/01/1992          | 113,000               | 6.00                 | 49,974                    |
| V                | [REDACTED]  | 08/01/1992          | 31,000                | 6.50                 | 3,063                     |
| IV               | [REDACTED]  | 08/01/1992          | 210,000               | 6.75                 | 147,358                   |
| III              | [REDACTED]  | 11/01/1992          | 70,700                | 6.75                 | 34,126                    |
| IV               | [REDACTED]  | 11/01/1992          | 250,000               | 7.50                 | 14,802                    |
| IV               | [REDACTED]  | 12/01/1992          | 15,200                | 7.00                 | 4,560                     |
| IV               | [REDACTED]  | 02/01/1993          | 11,000                | 6.00                 | 823                       |
| IV               | [REDACTED]  | 02/01/1993          | 50,000                | 6.00                 | 24,228                    |
| III              | [REDACTED]  | 02/01/1993          | 65,000                | 6.00                 | 765                       |

Exhibit D

| Credit Rating | Name       | Date of Loan | Amount of Loan | Interest Rate | Balance 03/31/02         |
|---------------|------------|--------------|----------------|---------------|--------------------------|
| III           | [REDACTED] | 07/01/97     | 625,000        | 6.750         | 537,800                  |
| III           | [REDACTED] | 08/01/97     | 362,000        | 9.000         | 312,442                  |
| III           | [REDACTED] | 05/01/98     | 180,000        | 6.070         | 118,390                  |
| IV            | [REDACTED] | 12/01/99     | 1,000,000      | 7.278         | 936,503                  |
| III           | [REDACTED] | 05/01/00     | 304,000        | 8.122         | 289,164                  |
| IV            | [REDACTED] | 07/01/00     | 582,000        | 7.479         | 544,764                  |
| IV            | [REDACTED] | 10/01/00     | 210,000        | 7.125         | 201,277                  |
| IV            | [REDACTED] | 01/17/01     | 174,000        | 6.290         | 167,137                  |
| III           | [REDACTED] | 04/12/01     | 134,000        | 6.432         | 129,775                  |
| IV            | [REDACTED] | 05/17/01     | 309,000        | 6.423         | 299,663                  |
| IV            | [REDACTED] | 9/1/01       | 565,000        | 6.500         | 552,796                  |
| IV            | [REDACTED] | 03/13/02     | 352,000        | 6.151         | 349,030                  |
| <b>TOTAL</b>  |            |              |                |               | <b><u>12,362,387</u></b> |

**MILWAUKEE ECONOMIC DEVELOPMENT CORPORATION  
LOAN LOSS RESERVE ANALYSIS**

**Exhibit E**

In response to the Board's request for regular evaluation of MEDC's Loss Reserves, the following is staff's recommendation for June 30, 2002 Loss Reserve levels.

| <b>LOAN FUND</b>               | <b>CURRENT<br/>LOAN LOSS<br/>RESERVES</b> | <b>PROPOSED<br/>LOAN LOSS<br/>RESERVES</b> | <b>LOSS<br/>RESERVE<br/>INC(DEC)</b> |
|--------------------------------|---|--|--------------------------------------|
| MEDC Fund                      | \$5,018,710                               | \$5,018,710                                | \$ -                                 |
| CDBG Fund                      | 64,000                                    | 42,000                                     | (22,000)                             |
| Revolving Loan Fund            | 17,000                                    | 8,000                                      | (9,000)                              |
| <b>TOTAL LOAN LOSS RESERVE</b> | <b>\$5,099,710</b>                        | <b>\$5,068,710</b>                         | <b>(\$31,000)</b>                    |

**MILWAUKEE ECONOMIC DEVELOPMENT CORPORATION  
LOAN LOSS RESERVE ANALYSIS**

**Exhibit E**

**CDBG Fund**

| Loan Rating                           | Current<br>Number of<br>Loans | Current<br>Loaned<br>Dollars | Reserve %<br>For Unknown<br>Future Losses | Rounded<br>Dollar<br>Reserve |
|---------------------------------------|-------------------------------|------------------------------|---|------------------------------|
| I                                     | 0                             | \$0                          | 1/2%                                      | \$0                          |
| II                                    | 0                             | \$0                          | 1%  | \$0                          |
| III                                   | 2                             | \$241,776                    | 2%  | \$4,836                      |
| IV                                    | 8                             | \$248,331                    | 5%  | \$12,417                     |
| V-VIII                                | 2                             | See Below                    |   |                              |
|                                       |                               | \$48,271                     | Specific                                  | \$24,000                     |
|                                       |                               | \$5,512                      | 20%                                       | \$1,102                      |
| <b>TOTAL</b>                          | <b>12</b>                     | <b>\$543,890</b>             |   | <b>\$42,354</b>              |
| <b>PROPOSED LOAN LOSS RESERVE</b>     |                               |                              |   | <b>\$42,354</b>              |
| <b>CURRENT LOAN LOSS RESERVE</b>      |                               |                              |   | <b>\$42,000</b>              |
| <b>INCR.(DECR.) LOAN LOSS RESERVE</b> |                               |                              |   | <b>\$354</b>                 |
| <b>TOTAL LOAN RECEIVABLE</b>          |                               | <b>\$543,890</b>             |   |                              |
| <b>PROPOSED LOAN LOSS RESERVE</b>     |                               | <b>\$42,354</b>              |   |                              |
| <b>RESERVE AS A % OF RECEIVABLE</b>   |                               | <b>7.79%</b>                 |   |                              |

**Revolving Loan Fund**

|                                       |          |                 |          |                |
|---------------------------------------|----------|-----------------|----------|----------------|
| I                                     | 0        | \$0             | 1/2%     | \$0            |
| II                                    | 0        | \$0             | 1%       | \$0            |
| III                                   | 3        | \$75,856        | 2%       | \$1,517        |
| IV                                    | 0        | \$0             | 5%       | \$0            |
| V-VIII                                | 2        | See Below       |          |                |
|                                       |          | \$6,197         | Specific | \$6,197        |
| <b>TOTAL</b>                          | <b>5</b> | <b>\$82,053</b> |          | <b>\$7,714</b> |
| <b>PROPOSED LOAN LOSS RESERVE</b>     |          |                 |          | <b>\$7,714</b> |
| <b>CURRENT LOAN LOSS RESERVE</b>      |          |                 |          | <b>\$8,000</b> |
| <b>INCR.(DECR.) LOAN LOSS RESERVE</b> |          |                 |          | <b>(\$286)</b> |
| <b>TOTAL LOAN RECEIVABLE</b>          |          | <b>\$82,053</b> |          |                |
| <b>PROPOSED LOAN LOSS RESERVE</b>     |          | <b>\$7,714</b>  |          |                |
| <b>RESERVE AS A % OF RECEIVABLE</b>   |          | <b>9.40%</b>    |          |                |

MILWAUKEE ECONOMIC DEVELOPMENT CORPORATION  
 LOAN LOSS RESERVE ANALYSIS

MEDC Fund - Non TIF & Non UDAG

| Loan Rating  | Current Number of Loans | Current Loaned Dollars | Reserve % For Unknown Future Losses | Rounded Dollar Reserve |
|--------------|-------------------------|------------------------|-------------------------------------|------------------------|
| I            | 0                       | \$0                    | 1/2%                                | \$0                    |
| II           | 2                       | \$263,048              | 1%                                  | \$2,630                |
| III          | 63                      | \$6,388,399            | 2%                                  | \$127,768              |
| IV           | 143                     | \$20,254,309           | 5%                                  | \$1,012,715            |
| V-VIII       | 9                       | See Below              |                                     |                        |
| [REDACTED]   |                         | \$27,395               | 20%                                 | \$5,479                |
| [REDACTED]   |                         | \$18,750               | 20%                                 | \$3,750                |
| [REDACTED]   |                         | \$3,063                | 20%                                 | \$613                  |
| [REDACTED]   |                         | \$59,779               | 20%                                 | \$11,956               |
| [REDACTED]   |                         | \$15,947               | 20%                                 | \$3,189                |
| [REDACTED]   |                         | \$84,918               | 20%                                 | \$16,984               |
| [REDACTED]   |                         | \$237,281              | 20%                                 | \$47,456               |
| [REDACTED]   |                         | \$10,410               | Specific                            | \$10,410               |
| [REDACTED]   |                         | \$270,197              | 20%                                 | \$54,039               |
| <b>TOTAL</b> | <b>217</b>              | <b>\$27,633,496</b>    |                                     | <b>\$1,296,990</b>     |

MEDC Fund - TIF

|              |          |                    |          |                  |
|--------------|----------|--------------------|----------|------------------|
| V            | 6        | See Below          |          |                  |
| [REDACTED]   |          | \$401,759          | 20%      | \$80,352         |
| [REDACTED]   |          | \$300,000          | Specific | 300,000          |
| [REDACTED]   |          | \$570,000          | Specific | 570,000          |
| [REDACTED]   |          | \$1,000,000        | 0%       | 0                |
| [REDACTED]   |          | \$269,175          | 0%       | 0                |
| [REDACTED]   |          | \$115,000          | 0%       | 0                |
| [REDACTED]   |          | \$158,681          | 0%       | 0                |
| <b>TOTAL</b> | <b>7</b> | <b>\$2,814,615</b> |          | <b>\$950,352</b> |

MEDC Fund - UDAG

|              |          |                    |          |                    |
|--------------|----------|--------------------|----------|--------------------|
| V            | 3        | See Below          |          |                    |
| [REDACTED]   |          | \$1,437,305        | Specific | \$1,042,944        |
| [REDACTED]   |          | \$1,264,206        | Specific | \$823,865          |
| [REDACTED]   |          | \$900,017          | Specific | \$900,017          |
| <b>TOTAL</b> | <b>3</b> | <b>\$3,601,528</b> |          | <b>\$2,766,826</b> |

|                                |             |
|--------------------------------|-------------|
| PROPOSED LOAN LOSS RESERVE     | \$5,014,168 |
| CURRENT LOAN LOSS RESERVE      | \$5,018,710 |
| INCR.(DECR.) LOAN LOSS RESERVE | (\$4,542)   |

|                              |              |
|------------------------------|--------------|
| TOTAL LOAN RECEIVABLE        | \$34,049,639 |
| PROPOSED LOAN LOSS RESERVE   | \$5,014,168  |
| RESERVE AS A % OF RECEIVABLE | 14.73%       |

**Example Documents to be Identified in Development Contract  
Central Locator Index**

**General:**

Project plan  
Cooperation agreement  
Development agreement including all exhibits  
Amendments to Development Agreement

**Loan/Financing:**

Term sheet for loan  
Loan agreement and amendments  
Promissory note  
Real estate mortgage(s)  
UCC financing statements  
Disbursing agreement  
Assignment of leases and rents  
Subordination agreement(s)  
Completion guarantee  
Payment guarantee(s)  
Title insurance policy  
Appraisal

**Other:**

Annual financial statements  
Monthly financial statements  
Annual insurance certificates  
Personal financial statements  
Income tax returns

Note: Not all of the above agreements will apply to any individual development. Further, some projects may require specialized documents not listed above.

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**DEPARTMENT RESPONSE**

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Department of City Development

Housing Authority  
Redevelopment Authority  
City Plan Commission  
Historic Preservation Commission

**Julie A. Penman**  
Commissioner

**Michal A. Dawson**  
Deputy Commissioner

March 7, 2003

Mr. W. Martin Morics, Comptroller  
Office of the Comptroller  
200 East Wells Street, Room 404  
Milwaukee, WI 53202

Dear Mr. Morics:

RE: Response to "Audit of City of Milwaukee Development Contract Management and Administration.

We received the report of the Department of City Development (DCD) program referred to above. DCD staff reviewed the report and would like to offer the following comments on your staff's recommendations.

### **Recommendation 1**

The disbursement of loans or grants by a title company or lead (first mortgage) lender provides assurance that contractual requirements are met before funds are disbursed. A title company or lead lender should disburse all development loans and grants.

### **DCD Response**

DCD agrees that it will use a title company for all large contracts that require disbursements in stages as construction goals are met. However, for smaller loans; for those projects that require a simple transfer of land title; or, for those contracts that call for a single disbursement of funds at project completion, engagement of a title company is not needed.

### **Recommendation 2**

- a) At closing, loan files should include evidence that all material contractual requirements were met at closing, including required contracts/documents to which the City is not a party. While the volume of documents may preclude obtaining copies of all contracts, there should be evidence that City staff have performed a sufficient document review to ensure that all collateral project requirements have

been satisfied. This could be done by obtaining an extract (title page, signature page) of all documents and/or by means of a checklist including all required documents.

- b) Given the existence of the above checklist, an appropriate DCD project manager should then sign and date the checklist to certify that all economic development project requirements have been met, noting any exceptions for future follow up. City Attorney staff could sign and date the checklist to certify that all legal requirements have been met. This could be useful if future questions of contract compliance should arise.

### **DCD Response**

Legal Counsel provides MEDC with a checklist of required contracts and documents at closing. Items are checked off as received. A paralegal forwards a packet of documents to MEDC that are renumbered by MEDC staff and put in a documentation file. Any missing items at that time are noted by the paralegal in a letter to MEDC. We will work with the City attorney to institute a similar process for all future DCD loans. The checklist will be provided to the appropriate project manager for follow-up.

### **Recommendation 3**

- a) Soon after a development contract is executed, the responsible project manager should prepare a checklist or "tickler file" to identify the project requirements throughout the life of the project. This checklist would serve as a guide for necessary project monitoring requirements in future years as these items become due. The checklist should be filed with the development contract in DCD's central contract file or, for development projects that include loans, loan administration section files. As development contracts can cover periods of 20 years or more, this checklist will be of use, particularly, as project managers are reassigned, retire, etc.
- b) Currently, development project documents may be filed in the central contract file, loan administration section files, or kept by project managers during project construction. To ensure that necessary documents are available to staff monitoring projects in future years, DCD should establish a central locator index of documents for each development project. Exhibit F provides examples of documents to be included in the central locator index.

### **DCD Response**

- a) We have prepared a sample checklist tickler file (copy attached) that will be provided to all project managers and kept in all future contract files. DCD has reviewed all existing loan files for completeness and most of the existing loan files have a checklist of documents in the front of the original document file. Follow-up items are noted on the Account Status Report.

- b) DCD has established a central file for all original loan documents in the Administration Division. The file cabinet is secure and fireproof. Project managers are responsible for forwarding all appropriate documentation, correspondence, financial reports and any relevant information for filing. The Administration Division's Accounting Section has started a binder of RACM loan information and insurance binders. This binder will be kept in accounting for ease of reference and a note will be included in each file indicating its location.

#### **Recommendation 4**

DCD loan administration personnel should follow up to ensure that all UCC financing statements are filed with the Wisconsin Department of Financial Institutions, in a timely manner. Copies evidencing filing should be included in loan files.

#### **DCD Response**

The City Attorney files the UCC statements. We should receive filed copies of the statements from the state or Milwaukee County. As part of our checklist, we will regularly check to make sure the UCC copies have been received and if they are not we will order copies from the Milwaukee County, Business Register of Deeds or from the state. Filings are also available for viewing on the state website, however they cannot be printed. We will periodically review project loan files to extend these filings if necessary before the five-year termination period.

#### **Recommendation 5**

DCD managers should provide brief documentation in project files of the status of facility improvements at the time of each DCD inspection. Files should include a statement as of the end of construction stating that the improvements were constructed consistent with the development agreement, describing any amendments and exceptions. Material exceptions should be approved by the Common Council and RACM, or if approval is delegated to the DCD Commissioner, reported to RACM and the Common Council.

#### **DCD Response**

DCD will add these items to our checklist to assure that we properly record the documentation suggested. Project managers will be instructed to send these reports to Administration for filing in the central file.

**Recommendation 6**

EEP should ensure that their files contain documentation of resolution in cases in which a developer does not meet DBE or Residents preference requirements.

**Recommendation 7**

DCD should work with EEP to identify alternatives to Residents Preference requirements in instances where the need for specialized skill will make the achievement of Residents Preference requirements impossible or infeasible.

**Recommendation 8**

DCD should monitor job creation and retention in City financed development projects. Towards this end, DCD should maintain documentation on the actual jobs created and/or retained at various points in time wherever such objectives are a part of a City or RACM project plan, feasibility study or development contract.

**DCD Response to Recommendations 6,7, &8**

DCD will initiate a working group with EEP to address these recommendations.


**Recommendation 9**

The Common Council should consider adopting a formal policy requiring that all proceeds generated from assets or funds provided to RACM or MEDC be returned to the City, subject to RACM debt service requirements and other disposition as required by Common Council resolutions or by contracts between the parties. Such a policy would formalize the current practice in TID projects, and expand it to all development projects.

**DCD Response**

The current practice is for the Mayor and Common Council to review each project on an individual basis. We would recommend that this practice be continued to give policy makers maximum flexibility in determining the best method of financing development projects and achieving policy goals.

Sincerely,

  
Julie A. Penman  
Commissioner

Checklist for the Administration of RACM Loans

Project Name: \_\_\_\_\_

Project Manager: \_\_\_\_\_

Date checklist prepared: \_\_\_\_\_

**1. Insurance Certificate**

Type of insurance required:    Hazard \_\_\_\_\_  
  Liability \_\_\_\_\_  
  Other \_\_\_\_\_

Required notice of cancellation (number of days): \_\_\_\_\_ days

Mortgagee clause (real estate): \_\_\_\_\_

Loss payee clause (personal property): \_\_\_\_\_

**2. Financial statement reporting**

Frequency:                    Annual \_\_\_\_\_ within \_\_\_\_\_ days  
  Quarterly \_\_\_\_\_ within \_\_\_\_\_ days  
  Monthly \_\_\_\_\_ within \_\_\_\_\_ days

If guarantor, financial statement requirement: \_\_\_\_\_

Type of financial reports:                    Audit \_\_\_\_\_  
  Compilation, certified by an officer of co. \_\_\_\_\_

**3. UCC financing statements (fixtures and equipment as collateral)**

Check if required (filing must be extended every 5 years) \_\_\_\_\_

**4. Emerging Enterprise Program (EEP) to monitor Disadvantaged Business Enterprise (DBE) participation** \_\_\_\_\_

**5. Jobs Creation Requirements:** \_\_\_\_\_

**6. Other monitoring Requirements:** \_\_\_\_\_