



December 8, 2012

Ms. Gayla R. Chapman, Administrative Services Director
City of Grover Beach
154 South 8th Street
Grover Beach, CA 93433

Dear Ms. Chapman:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 6, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Grover Beach Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 11, 2012. Finance issued a LMIHF DDR determination letter on November 6, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on Wednesday, November 21, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities is appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reasons:

- Reimbursement of developer costs associated with the Farroll Road Project in the amount of \$25,000 was unauthorized. Finance continues to hold the position that this item was not approved on any Recognized Obligation Payment Schedule (ROPS) and therefore, retaining current LMIHF balances to reimburse the developer is not authorized.
- Project costs of \$95,000 for the Farroll Road Project was denied by Finance in our ROPS determination letter dated October 19, 2012. Therefore, this obligation is not eligible for payment and the associated balances must be remitted to the county for disbursement to the taxing entities.
- Through the ROPS Meet and Confer process, Finance maintains that the Farroll Road Project is not an enforceable obligation. Finance denied the items as enforceable obligations as HSC section 34163 (b) prohibits a redevelopment agency (RDA) from entering into contracts with any entity after June 27, 2011, and the contract for these items was executed on October 13, 2011. The Agency contends the items are enforceable obligations because the former RDA Board authorized the regulatory

agreement with an effective date of April 4, 2011 and the delay in signing was due to minor changes in the language and clerical corrections. However, the Draft Regulatory Agreement presented and approved by the former RDA Board was not the final copy that was signed and executed by the parties. Certain terms and sections within the agreement were revised and the changes were not presented to the former RDA Board on April 4, 2011 for its consideration. Those revisions include, but are not limited to:

- o LMIHF identified as the funding source in Item B of the Recitals.
- o Sale Price Range was changed in Section 10.
- o Committing the former RDA to spend up to \$50,000 to clean the site if soil sampling reveals presence of hazardous substances was added in Section 25.

Therefore, the effective date of the agreement is not April 4, 2011 and the execution of the agreement on October 13, 2011 was not a ministerial act. HSC section 34163 (b) prohibits a RDA from entering into contracts with any entity after June 27, 2011. Therefore, these items are not enforceable obligations.

In addition, per Finance's LMIHF DDR letter dated November 6, 2012, the following adjustment remains applicable:

- Unallowable transfer of Notes Receivable in the amount of \$227,568. The Housing Asset Transfer List did not list any receivables to be transferred to the housing entity; therefore the Agency must be in receipt of the receivable. This item is not a cash equivalent and therefore, will not affect the amount remitted to the county for disbursement to taxing entities. However this item will need to be included in the long range management plan. Two adjustments were made regarding this item; an adjustment to add in the disallowed transfer and an adjustment to recognize it as an asset other than cash or cash equivalent.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$934,200 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 814,200
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 227,568
Denied ROPS items:	95,000
Retained balace not supported:	25,000
Non-cash asset adjustment:	(227,568)
Total LMIHF available to be distributed:	\$ 934,200

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. 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.

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, that Agency's 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 redevelopment agency (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 and Finance's Housing Assets Transfer letter dated August 23, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Zachary Stacy, Manager or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Robert Perrault, City Manager, City of Grover Beach
Ms. Barbara Godwin, Property Tax Manager, San Luis Obispo County Auditor
California State Controller's Office