



August 1, 2013

Mr. Rick Marvin, Housing and Property Manager
City of Monterey
Madison and Pacific Streets
Monterey, CA 93940

Dear Mr. Marvin:

Subject: Housing Assets Transfer Form

This letter supersedes the California Department of Finance's (Finance) Housing Asset Transfer Form (Form) letter dated August 30, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Monterey as Housing Successor Agency (Agency) submitted a Form to Finance on July 31, 2012, for the period February 1, 2012 through July 31, 2012. Finance issued its determination related to those transferred asset on August 30, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items that was objected to by Finance. The Meet and Confer was held on February 4, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed.

- Exhibit A, Items 1 through 5 – Real property. Finance no longer objects to the transfer of these items. The Agency contended and Finance confirmed that these properties were purchased with funds from the Low and Moderate Income Housing Fund (LMIHF) and therefore, meet the definition of a housing asset pursuant to HSC section 34176 (e) (1).
- Exhibit C, Item 3 – Low-mod housing totaling \$2.04 million. Finance continues to object to the transfer of this item. To qualify as a housing asset, HSC section 34176 (e) (2) states funds must be encumbered by an enforceable obligation entered into prior to June 27, 2011 to build or acquire low and moderate income housing. However, no contracts or agreements entered into prior to June 27, 2011 were provided by the Agency to support the obligation. Further, this item was denied as an enforceable obligation in Finance's Recognized Obligation Payment Schedule letter dated December 18, 2012.

The Agency contends the item is a pre-existing obligation for replacement housing created by the former Redevelopment Agency (RDA) when it converted 10 housing units for low and moderate income housing purposes per HSC section 33334.3. However, obligations associated with the former RDA's previous statutory housing obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 required that, "all rights, powers, duties,

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obligations and housing assets...shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of statutory obligations to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1 26/AB1484. Therefore, this item is not a housing asset pursuant to HSC section 34176 (e) (2).

This is Finance's final determination related to the assets reported on your Form. Except for items disallowed as noted above, Finance is not objecting to the remaining items listed on your Form. Assets transferred deemed not to be a housing asset shall be returned to the successor agency.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Szalay", with a stylized flourish extending to the right. The signature is written over the printed name "STEVE SZALAY".

STEVE SZALAY for
Local Government Consultant

cc: Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office