

GROVER BEACH IMPROVEMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

February 2014



JOHN CHIANG
California State Controller

February 21, 2014

Gayla Chapman, Director
Grover Beach Improvement Agency/Successor Agency
154 South 8th Street
Grover Beach, CA 93433

Dear Ms. Chapman:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office reviewed all asset transfers made by the Grover Beach Improvement Agency (RDA) to the City of Grover Beach (City) or any other public agency after January 1, 2011. This statutory provision states, "The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in furtherance of the Community Redevelopment Law and is thereby unauthorized." Therefore, our review included an assessment of whether each asset transfer was allowable and whether it should be turned over to the Successor Agency.

Our review applied to all assets including, but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payment of any kind. We also reviewed and determined whether any unallowable transfers of assets to the City or any other public agencies have been reversed.

Our review found that the RDA transferred \$2,703,501 in assets after January 1, 2011, including unallowable transfers totaling \$240,000 to the City, or 8.87% of transferred assets. However, on April 30, 2013, the City turned over \$50,000 of the loan repayments to the Successor Agency. Therefore, the remaining amount of unallowable transfers totaling, \$190,000, must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth Gonzalez, Bureau Chief, Local Government Compliance, by phone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/mh

Attachment

cc: Bob Perrault, City Manager/Executive Director
City of Grover Beach
James P. Erb, CPA
Auditor Controller
County of San Luis Obispo
Martin D. Koczonowicz, City Attorney
City of Grover Beach
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth Gonzalez, Bureau Chief
Division of Audits, State Controller's Office
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Daniela Anechitoaie, Auditor-in-Charge
Division of Audits, State Controller's Office
Claudia Corona, Auditor
Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Grover Beach Improvement Agency (RDA) after January 1, 2011. Our review included, but was not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payments of any kind from any source.

Our review found that the RDA transferred \$2,703,501 in assets after January 1, 2011, including unallowable transfers totaling \$240,000 to the City of Grover Beach (City), or 8.87% of transferred assets. However, on April 30, 2013, the City turned over \$50,000 of the loan repayment to the Successor Agency. Therefore, the remaining amount of unallowable transfers, totaling \$190,000, must be turned over to the Successor Agency.

Background

In January of 2011, the Governor of the State of California proposed statewide elimination of redevelopment agencies (RDAs) beginning with the fiscal year (FY) 2011-12 State budget. The Governor's proposal was incorporated into Assembly Bill 26 (ABX1 26, Chapter 5, Statutes of 2011, First Extraordinary Session), which was passed by the Legislature, and signed into law by the Governor on June 28, 2011.

ABX1 26 prohibited RDAs from engaging in new business, established mechanisms and timelines for dissolution of the RDAs, and created RDA Successor Agencies to oversee dissolution of the RDAs and redistribution of RDA assets.

A California Supreme Court decision on December 28, 2011 (*California Redevelopment Association et al. v. Matosantos*), upheld ABX1 26 and the Legislature's constitutional authority to dissolve the RDAs.

ABX1 26 was codified in the Health and Safety (H&S) Code beginning with section 34161.

In accordance with the requirements of H&S Code section 34167.5, the State Controller is required to review the activities of RDAs, "to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency, or any other public agency, and the redevelopment agency," and the date on which the RDA ceases to operate, or January 31, 2012, whichever is earlier.

The SCO has identified transfers of assets that occurred after January 1, 2011, between the RDA, the City, and/or other public agencies. By law, the SCO is required to order that such assets, except those that already had been committed to a third party prior to June 28, 2011, the effective date of ABX1 26, be turned over to the Successor Agency. In addition, the SCO may file a legal order to ensure compliance with this order.

Objective, Scope, and Methodology

Our review objective was to determine whether asset transfers that occurred after January 1, 2011, and the date upon which the RDA ceased to operate, or January 31, 2012, whichever was earlier, between the city or county, or city and county that created an RDA, or any other public agency, and the RDA, were appropriate.

We performed the following procedures:

- Interviewed Successor Agency personnel to gain an understanding of the Successor Agency operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the RDA and the City.
- Reviewed accounting records relating to the recording of assets.
- Verified the accuracy of the Asset Transfer Assessment Form. This form was sent to all former RDAs to provide a list of all assets transferred between January 1, 2011, and January 31, 2012.
- Reviewed applicable financial reports to verify assets (capital, cash, property, etc.).

Conclusion

Our review found that the Grover Beach Improvement Agency transferred \$2,703,501 in assets after January 1, 2011, including unallowable transfers totaling \$240,000 to the City of Grover Beach (City), or 8.87% of transferred assets. However, on April 30, 2013, the City turned over \$50,000 of the loan repayment to the Successor Agency. Therefore, the remaining amount of unallowable transfers, totaling \$190,000, must be turned over to the Successor Agency.

Details of our finding is in the Finding and Order of the Controller section of this report.

Views of Responsible Official

We issued a draft review report on November 7, 2013. Gayla Chapman, Administrative Services Director, responded by dated November 20, 2013, disagreeing with the review results. The City's response is included in this final review report as an attachment.

Restricted Use

This report is solely for the information and use of the Successor Agency, the City, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

February 21, 2014

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
City of Grover
Beach**

The Grover Beach Improvement Agency (RDA) made unallowable asset transfers of \$240,000, described in Schedule 1, to the City of Grover Beach (City). The asset transfers occurred during the period after January 1, 2011, and were not contractually committed to a third party prior to June 28, 2011.

Our review found that on June 30, 2011, the RDA made two cash transfers in the amount of \$50,000 each, one related to the loan repayment to the Wastewater Fund and the other to repay the General Fund. Furthermore, on July 1, 2011, the RDA made two additional cash transfers, one in the amount of \$40,000 to the Wastewater Fund and the other in the amount of \$100,000 to the General Fund.

Pursuant to Health and Safety (H&S) Code section 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011, that were not contractually committed to a third party prior to June 28, 2011.

Order of the Controller

Based on H&S Code section 34167.5, the City is ordered to reverse the unallowable asset transfers described above, in the amount of \$240,000, and turn them over to the Successor Agency.

However, on April 30, 2013, the City reversed the \$50,000 repayment to General Fund loan; therefore, no corrective action is required in regard to this transfer. The remaining amount of unallowable transfers subject to H&S Code section 34167.5 is \$190,000.

City of Grover Beach Response to Draft Report

The City of Grover Beach responded that on April 26, 2013 the City received the Finding of Completion (FOC) from the Department of Finance (DOF). During the process of obtaining the FOC, DOF reviewed all transfers and other transactions related to the former Improvement Agency (IA) and identified one transaction that needed to be reversed. It was a \$50,000 payment made to the City. City complied with that request and reversed that transaction. No others were subject to reversal and remainder was approved as enforceable obligations.

The approval that resulted in the FOC included the all of payments made by the IA including the 07/01/11 \$100,000 and the \$90,000 discussed below. Your department is now requesting reversal of those payments. In view of the fact that the DOF has approved these payments, the City considers these as valid and not subject to reversal.

With regard to the two payments totaling \$90,000 repaying a loan for the West Grand Avenue Storm Drain Project, please review the attached resolutions IA 09-09 and Resolution 10-28 which confirm and document that the loan made by the City's Wastewater Enterprise Fund to the Improvement Agency for a legitimate purpose of completing the Storm Drain project.

SCO's Comment

The SCO acknowledged that the City reversed \$50,000 of the loan repayments on April 30, 2013, and noted that fact in the Draft Report.

Furthermore, in regards to the City's comments about the two payments totaling \$90,000 for the repayment of the West Grand Avenue Storm Drain Project and the two resolutions provided, the SCO wishes to reiterate that H&S Code section 34167.5 assigned the SCO the responsibility for recouping redevelopment assets inappropriately transferred during the first half of 2011, regardless of the use of the loan proceeds. H&S Code section 34167.5 states that: "The legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized." The period referred to is for any transfer made after January 1, 2011. The IA transferred funds to the City after January 1, 2011; therefore these transfers are unallowable under H&S Code section 34167.5.

The finding and Order of the Controller remains as stated.

**Schedule 1—
Unallowable RDA Asset Transfers to
the City of Grover Beach
January 1, 2011, through January 31, 2012**

Cash transfers to City of Grover Beach Wastewater Fund (advance to complete the West Grand Avenue project):

June 30, 2011	\$	50,000
July 1, 2011		40,000

Cash transfers to City of Grover Beach General Fund (advance for project start-up costs):

June 30, 2011		50,000
July 1, 2011		100,000

Total unallowable transfers		240,000
Cash reversed to Successor Agency on April 30, 2013		(50,000)
Total asset transfers subject to H&S Code section 34167.5	\$	<u>190,000</u>

**Attachment—
City's Response to
Draft Review Report**



City of Grover Beach

Mayor Debbie Peterson Mayor Pro Tem Karen Bright
Council Member Jeff Lee, Council Member Glenn Marshall, Council Member Bill Nicolls

Robert Perrault
City Manager

November 20, 2013

CERTIFIED MAIL

California State Controller's Office
Att'n: Jeffrey V. Brownfield, CPA
Chief, Division of Audits
P.O. Box 942850
Sacramento California 94250-5874

Re: City of Grover Beach Asset Transfer Review

Dear Mr. Brownfield:

This is in response to your November 7, 2013 letter regarding the draft report on Grover Beach asset transfers. Please accept the following as City's comments on the proposed draft.

As you know, on April 26, 2013, 2013 the City received a Finding of Completion (FOC) from the Department of Finance (DOF). During the process of obtaining the FOC, DOF reviewed all transfers and other transactions related to the former Improvement Agency (IA) and identified one transaction that needed to be reversed. It was a \$50,000 payment made to the City. City complied with that request and reversed that transaction. No others were subject to reversal and remainder was approved as enforceable obligations.

The approval that resulted in the FOC included the all of payments made by the IA including the 07/01/11 \$100,000 and the \$90,000 discussed below. Your department is now requesting reversal of those payments. In view of the fact that DOF has approved these payments, the City considers these as valid and not subject to reversal.

With regard to the two payments totaling \$90,000 repaying a loan for the West Grand Avenue Storm Drain Project, please review the attached resolutions IA 09-09 and Resolution 09-28 which confirm and document the loan made by the City's Wastewater Enterprise Fund to the Improvement Agency for a legitimate purpose of completing the Storm Drain project.

The loan was made in 2009 and is well documented. The \$90,000 that was transferred as a repayment of the loan is not subject to a reversal, as it was a repayment of an existing loan for legitimate redevelopment purpose and approved by DOF.

154 South Eighth Street ♦ Grover Beach, California 93433 ♦ FAX (805) 489-9657 ♦ www.grover.org

Administrative Services/Water (805) 473-4550 ♦ City Council/City Manager (805) 473-4567 ♦ City Clerk (805) 473-4568
Community Development - Building, Planning & Economic Development (805) 473-4520 ♦ Human Resources (805) 473-4564
Parks & Recreation (805) 473-4580 ♦ Police/Non-Emergency (805) 473-4511 ♦ Public Works (805) 473-4520

California State Controller
November 20, 2013
Page Two

Lastly as a grammatical correction on page 4 Schedule 1, the parenthetical language in the first sentence refers to the "West Grand Avenue" project. That should be corrected to say "West Grand Avenue Storm Drain Project", as the West Grand Avenue project is a separate project for street improvements having nothing to do with this transfer.

Sincerely,



Gayla Chapman
Administrative Services Director

Cc: City Manager, Robert Perrault

Encl.

RESOLUTION NO. 10-28

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH,
CALIFORNIA, ADOPTING THE 9th AMENDMENT TO THE ANNUAL APPROPRIATION
RESOLUTION NO. 09-47 BY PROVIDING FUNDING FOR UNDERGROUNDING OF
UTILITIES EXPENDITURES FOR FY10**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GROVER BEACH:

THAT Section 16 of Part III of the Annual Appropriation Resolution No. 09-47 be and is hereby amended as follows:

	<u>Increase/(Decrease)</u>
TO: NON-DEPARTMENTAL Revenues	(\$29,000)
TO: PUBLIC WORKS Streets	<u>29,000</u>
Total Section 16	<u>(\$ -0-)</u>

THAT account titles and numbers requiring adjustment by this Resolution are as follows:

<u>Undergrounding Utilities</u>	<u>Sources</u>	<u>Uses</u>
Resources:		
16-000-2800	Cash Balance	29,000
A/C No.: 16-164-4330	Engineering	\$26,000
16-164-4001	Salary Full-Time	2,150
16-164-4020	Social Security	100
16-164-4022	Medicare	50
16-164-4040	Medical Insurance	350
16-164-4042	Dental/Life	50
16-164-4050	PERS	300
	_____	_____
Total Undergrounding Utilities Fund	<u>\$29,000</u>	<u>\$29,000</u>

Resolution No. 10-28
Annual Appropriation Resolution: Undergrounding Of Utilities

Page 2

THAT the purpose is to appropriate funds for the cost of engineering work on undergrounding of utilities projects.

THAT the balance in Undergrounding of Utilities cash balance would be decreased by \$29,000 to \$162,309.

On motion by Council Member Peterson, seconded by Council Member Bright and on the following roll call vote, to wit:

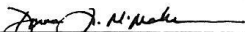
AYES: Council Members - Bright, Mires, Peterson, Mayor Pro Tem Nicolls,
and Mayor Shoals
NOES: Council Members - None
ABSENT: Council Members - None
ABSTAIN: Council Members - None

the foregoing Resolution was **PASSED, APPROVED, AND ADOPTED** at the Regular Meeting by the City Council of the City of Grover Beach, California, this 7th day of June, 2010.



JOHN P. SHOALS, MAYOR

ATTEST:



DONNA L. McMAHON, CITY CLERK

RESOLUTION NO. IA-09-09

A RESOLUTION OF THE GROVER BEACH IMPROVEMENT AGENCY,
ADOPTING THE 4th AMENDMENT TO THE ANNUAL APPROPRIATION
RESOLUTION NO. IA-08-06 BY PROVIDING FUNDING IN THE AMOUNT
OF \$450,000 TO FUND ALTERNATIVE A FOR THE MEADOW CREEK
BRIDGE AND WEST GRAND AVENUE STORM DRAIN PROJECT

BE IT RESOLVED BY THE IMPROVEMENT AGENCY OF THE CITY OF GROVER
BEACH:

THAT Section 21 of Part III of the Annual Appropriation Resolution No. IA-08-06 be and is
hereby amended as follows:

	Increase/(Decrease)
TO: IMPROVEMENT AGENCY Administrative Fund	\$450,000
FROM: NON-DEPARTMENTAL Transfers In	<u>(450,000)</u>
Total Section 21	<u><u>-0-</u></u>

THAT account titles and numbers requiring adjustment by this Resolution are as follows:

Agency Area One Low- and Moderate Housing Fund	Sources	Uses
Resources:		
A/C No.: 21-000-3000	\$450,000	
Appropriations:		
A/C No.: 21-296-4874		\$450,000
Total Agency Area One Administrative Fund	<u>\$450,000</u>	<u>\$450,000</u>

THAT the purpose is to provide funding for the Meadow Creek Bridge and West Grand
Avenue Storm Drain Project

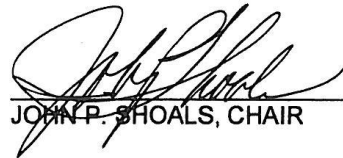
THAT the fund balance in the Improvement Agency Area – One Administrative Fund would
be (\$125,407) after adoption of this Resolution.

Authorization of Allocation of funds for Alternative A for the Meadow Creek Bridge and West Grand Avenue Storm Drain Project

On motion by Vice Chair Nicolls, seconded by Chair Shoals, and on the following roll call vote, to wit:

AYES: Board Members - Bright, Mires, Peterson, Vice Chair Nicolls, and Chair Shoals
NOES: Board Members - None
ABSENT: Board Members - None
ABSTAIN: Board Members - None

the foregoing Resolution was **PASSED, APPROVED, AND ADOPTED** at the Regular Meeting by the Improvement Agency of the City of Grover Beach, Grover Beach, California, this 4th day of May, 2009.


JOHN P. SHOALS, CHAIR

ATTEST:


DONNA L. McMAHON, AGENCY SECRETARY

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>