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Submitted in HCED Committee

Council File No: 13-0515

Item No.: 3

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER *Report from the CAO*

Date: May 15, 2013

CAO File No. 0220-00540-1040

Council File No. 13-0515

Council District: All

To: The Council
The Mayor

From: Miguel A. Santana, City Administrative Officer *MAS*

Reference: Transmittal from the Los Angeles Housing Department dated April 12, 2013; received by the City Administrative Officer on April 29, 2013

Subject: **REQUEST TO FORMALLY RECOGNIZE FUNDS RELATIVE TO A SETTLEMENT AGREEMENT INVOLVING ATTORNEYS GENERAL vs GE FUNDING CAPITAL MARKET SERVICES, INC.**

SUMMARY

The Los Angeles Housing Department (LAHD) requests authority to formally recognize \$682,480 in settlement agreement proceeds resulting from a suit brought forth by the Attorneys General of 26 states, including California, against GE Funding Capital Market Services, Inc. (GEFCMS). The multistate settlement resolves allegations that GEFCMS engaged in anti-competitive conduct in the municipal bond derivatives industry. The settlement is one component of a \$70 million coordinated state and federal law enforcement and regulatory action involving the U.S. Department of Justice, the Securities and Exchange Commission and the Internal Revenue Service. As part of the settlement, GEFCMS has agreed to pay \$30 million that will be used to reimburse government and nonprofit organizations across the US who were injured as a result of the allegedly anti-competitive conduct. GEFCMS also agreed to pay a \$1.23 million civil penalty and \$3 million to reimburse the states for fees and costs incurred during the investigation. The City's share of the funds was based on a formula developed by the Attorneys General with the assistance of their independent economic expert. The City Attorney and LAHD's outside bond counsel supported the recommendation to accept the settlement and, in conjunction with this advice, LAHD issued election to participate and executed release forms and received the settlement check within the mandated response deadlines. This Office concurs with the Department's recommendation to deposit settlement funds into the Municipal Housing Finance Fund (MHFF) since the settlement remedies deceptive conduct that impacted MHFF funds.

The multistate investigation revealed allegedly collusive and deceptive conduct by individuals during the period 1999 through 2005 at several financial institutions including GEFCMS. The conduct included bid rigging, agreements to refrain from bidding and fraud. Ultimately, the conditions resulted in lower yields, lower rates of return or less favorable terms for government and nonprofit organizations. The City will not need to pay attorney fees or administrative costs; under the

settlement agreement, GEFCMS is responsible for paying all of the costs of administering the settlement. The City will be exempt from reporting settlement funds as gross proceeds of related bond issues to comply with tax exempt bond rules; GEFCMS is required to make payments to the Internal Revenue Service to satisfy any outstanding liability owed from the arbitrage requirements of the Internal Revenue Code. The settlement agreement also has provisions relating to the conduct by GEFCMS governing future handling of bids for Guaranteed Investment Contracts and instructing GEFCMS to refrain from making material misrepresentations or omitting material facts to counterparties, agents and advisors.

RECOMMENDATION

That the Council, subject to approval of the Mayor, recognize \$682,480 in settlement funds as revenue to be received in FY 2012-13 and authorize the Controller to deposit these funds into the Municipal Housing Finance Fund 815 as Miscellaneous Revenue (Revenue Source Code 5188).

FISCAL IMPACT STATEMENT

There is no impact to the General Fund. The Los Angeles Housing Department included the \$682,480 in settlement funds stemming from the Attorneys General case against GE Funding Capital Market Services, Inc. in its calculation for FY 2013-14 revenues to the Municipal Housing Finance Fund.

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