



March 4, 2013

Ms. Lisa Strong, Deputy City Treasurer
Successor Agency to the City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Dear Ms. Strong:

Pursuant to Health and Safety Code (HSC) section 34179.6 (f), the Fontana Successor Agency was ordered by the Department of Finance (Finance) on November 30, 2012 to remit to the county auditor-controller \$9,085,117 in unencumbered Low-and-Moderate Income Housing Funds. Pursuant to a meet-and-confer session held on December 12, 2012, the ordered remittance amount was reduced to \$7,578,345.

According to our records, the Successor Agency has yet to remit the ordered sum. If this is not correct, and the Agency has remitted the full ordered sum, please provide proof of payment to both Finance and the county auditor-controller.

I strongly encourage you to promptly remit the ordered sum to the county auditor-controller if you have not already done so. If for some reason the Successor Agency cannot immediately remit the entire sum, HSC section 34179.6 (h) (3) authorizes Finance to review requests for an installment payment plan. If you wish to make installment payments, please notify your Agency's assigned Finance review staff immediately. Upon receipt of your request, Finance will work with your Agency to determine whether installment payments are appropriate, and whether a payment plan can be finalized within the next 30 days.

Alternatively, Per HSC section 34179.6 (h), failure to remit the ordered sum within five business days of Finance's meet-and-confer decision may result in the one or more of the following:

- Sales & Use Tax Withholding: For those situations where the amount to be remitted has previously been transferred to the city, Finance is expecting to request the Board of Equalization to withhold an equivalent amount of sales and use tax distribution from the city that created the former redevelopment agency (RDA). Such withholding would likely occur in May.
- Property Tax Withholding from Successor Agency: Finance is expecting to direct the withholding by the county auditor-controller of an equivalent amount of property tax out of the RPTTF from the Successor Agency. If the withholding of property tax revenue from the Successor Agency is ordered, the withholding will take effect with the June 2013 Redevelopment Property Tax Trust Fund allocation.
- County Auditor Controller Remedy: Based on a successor's particular circumstances, Finance may not seek the remedies described previously. However, the county auditor-

controller may decide, at his or her own discretion pursuant to HSC section 34179.6 (h), to reduce the property tax allocation to the Successor Agency or the local agency that currently possesses the sums in question.

Finance has no desire to seek any of the above remedies against either the Successor Agency or the city or county that is performing the duties of the Successor Agency. **However, if the Successor Agency fails to remit the ordered sum to the county auditor-controller within 30 days of the date of this letter, Finance is prepared to utilize any of the above-described remedies provided for by law.**

If Finance does not immediately pursue the remedies described previously, additional actions are still available to seek your compliance with the ministerial duties set forth in HSC section 34179.6 For example, Finance will determine if it is appropriate to file a petition for writ of mandate in the Sacramento Superior Court seeking an order for the Successor Agency to remit the ordered sum to the county auditor-controller.

If you have questions regarding remittance instructions, please contact your county auditor-controller's office to ensure that they have reported the accurate remittance amount to the Department of Finance.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Dawn Brooks, Accounting Manager, City of Fontana
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County
California State Controller's Office