DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

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November 30, 2012

Ms. Lisa Strong, Deputy City Treasurer
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Dear Ms. Strong:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of Fontana Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on November 5, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the October 15, 2012 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the November 9, 2012 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of Low and Moderate Income Housing Fund (LMIHF) available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Land acquisitions totaling $1.5 million were denied by Finance in our letter dated August 31, 2012 as an inclusion to the Housing Asset Transfer Form. Subsequently, the Agency requested a Meet and Confer session regarding the disputed parcels. However, no conclusion has yet been reached; therefore, Finance continues to object to these items.

- Loan transfers totaling $59,230. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that these loan agreements were executed after June 27, 2011.

- Request to retain balances for the funding of enforceable obligations in the amount of $7.6 million. All enforceable obligations listed on your Recognized Obligation Payment Schedule for the period January 2012 through June 2013 were funded by Redevelopment Property Tax Trust Fund, not LMIHF.

If you disagree with Finance's adjusted amount of LMIHF balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of

this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's LMIHF balance available for distribution to the affected taxing entities is $9,085,177 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(34,644)
Finance Adjustments		
Add:		
Disallowed transfers	$	59,230
Denied HAT items		1,506,772
Requested retained balance not supported		7,553,759
Total LMIHF available to be distributed:	$	9,085,117

Absent a Meet and Confer request, 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.

Pursuant to HSC 34179.6 (h) (1) (B), 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.

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, the Agency's failure to recover and remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

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 31, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

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