



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

OCT 03 2014

City of San Diego
Attention: Public Utilities Director
202 C Street
San Diego, CA 92101

Dear Sir or Madam:

FUNDING AGREEMENT NO. SRF14C104 (AGREEMENT) – CITY OF SAN DIEGO (CITY)
PROJECT NO. 3710020-066C – SAFE DRINKING WATER STATE REVOLVING FUND

The Agreement between the City and the California Department of Public Health (CDPH) was executed on June 11, 2014. On July 1, 2014, the drinking water functions of CDPH transferred to the State Water Resources Control Board (State Water Board). As a result of that transfer, the State Water Board succeeded to CDPH as party to this Agreement. This Agreement is now being administered by the Division of Financial Assistance within the State Water Board; I am the head of that Division.

The City has failed to submit an initial claim by September 9, 2014, as required in Article A-6, but it appears that presently no claim could be eligible for financing under state law. At the time CDPH and the City entered into the agreement, it appeared that the City was ineligible to receive state financial assistance. Specifically, the City did not disclose to CDPH the existence of City ordinance section 22.4402 and that section's apparent conflict with Public Contract Code section 2503. The Agreement is "subject to availability of funds," pursuant to Section 4 of the Agreement. Funds are not available so long as the City cannot satisfy the State Water Board that its ordinance section 22.4402 does not conflict with section 2503 of the Public Contract Code. The City was, or should have been, aware of this conflict, as it has participated in a number of discussions with State Water Board staff on this topic over the last two years.

In an effort to resolve this issue, the State Water Board requests that City submit by November 1, 2014, an explanation of how the City will address the apparent conflict.

Sincerely,

for
Darrin Polhemus
Deputy Director
Division of Financial Assistance