



October 16, 2013

Mr. Michael Powers, City Manager
City of King City
212 S. Vanderhurst Avenue
King City, CA 93930

Dear Mr. Powers:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated September 17, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of King City Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on August 2, 2013. Finance issued a LMIHF DDR determination letter on September 17, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on October 7, 2013.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to object to the Agency's request to retain the amount of \$1,000,000 for an enforceable obligation pursuant to the Affordable Housing Agreement (Agreement) between the former redevelopment agency (RDA) and Smith-Monterey, LLC (Developer):

- Section 203 of the Agreement requires the former RDA to provide Agency Housing Assistance Funds to the Developer from funds deposited in the Agency's LMIHF as of the date of commencement of construction of the Downtown Addition houses. It is our understanding construction work has not begun as of the date of the Meet and Confer Session.

Additionally, per Section 201 of the Agreement, the amount of assistance provided to the Developer is dependent upon the amount and terms of assistance provided to individual homebuyers; recipients must qualify as low and moderate income households prior to receiving assistance. Therefore, there is no immediate obligation for the Agency to provide Housing Assistance to the Developer in the amount of \$1,000,000 from funds currently in the LMIHF.

Alternatively, the Agency has proposed to use the \$1,000,000 in the LMIHF to purchase land to be used as a site for a multifamily housing complex pursuant to Section 202 of the Agreement, instead of Agency Housing Assistance for which funds were deemed encumbered. Although the Agreement, and subsequently the use of LMIHF to provide down payment assistance or to purchase the site, may be deemed an enforceable obligation, the Agency should include any

obligations stemming from the Agreement on a future Recognized Obligation Payment Schedule (ROPS) for payment from funding sources other than LMIHF, including Redevelopment Property Tax Trust Fund funding. However, please note any item listed on a ROPS is subject to Finance review and approval; enforceability of any item is considered during each ROPS period.

The Agency's LMIHF balance available for distribution to the affected taxing entities is \$1,206,871 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 206,871
Finance Adjustments	
Add:	
Requested restricted balance not supported	1,000,000
Total LMIHF available to be distributed:	\$ 1,206,871

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified above within five working days, plus any interest those sums accumulated while in the possession of the recipient.

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 successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that 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.

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

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city, county, or any other public agency. Determinations outlined in this letter 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,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Cyndi Iglesias, Administrative Assistant, City of King
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office