



REVISED

September 30, 2016

Ms. Dawn Merchant, Finance Director
City of Antioch
P.O. Box 5007
Antioch, CA 94531-5007

Dear Ms. Merchant:

Subject: Other Funds and Accounts Due Diligence Review

This letter, in conjunction with the California Department of Finance's (Finance) Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated August 26, 2016, supersedes Finance's OFA DDR determination letter dated May 1, 2013.

Our August 26, 2016 determination was issued in accordance with the peremptory writ of mandate issued in Sacramento County Superior Court Case No. 34-2015-80002092, which required Finance to determine whether the disputed transfers in the OFA DDR totaling \$768,958 were properly made under the 2002 amendment to a loan agreement between the California Department of Boating and Waterways (DBW), the City of Antioch (City), and the former Redevelopment Agency of the City of Antioch (former RDA). Based on the City, former RDA, and DBW's course of conduct and on 2002 reports by the City and DBW, Finance determined that the City, former RDA, and DBW agreed that, as a condition to modify the loan agreement, the former RDA would pay \$2,500,000 in redevelopment funds to the City which the City would commit to the Marina for ten years, \$1,700,000 of which was required to be earmarked by the City for the Marina Capital Outlay Fund (Condition to Modify Loan). Based on this, Finance found that \$518,958 of the \$768,958 transferred to the City was not made pursuant to the Condition to Modify Loan.

The Agency disagreed with Finance's August 26, 2016 determination that the Agency's total obligation under the Condition to Modify Loan was \$2,500,000, and requested a Meet and Confer session that was held on September 21, 2016. During the Meet and Confer session the Agency confirmed that the transfers at issue here (and the ROPS requests at issue in Finance's August 26, 2016 ROPS I and II determination letter) were made to fulfill the Condition to Modify Loan, not the debt service on the loan that was being modified. In addition, the Agency contends the money paid by the former RDA to fulfill the Condition to Modify Loan could be used to pay the debt service on the loan and the Condition to Modify Loan was not limited to \$2,500,000.

After a review of the additional information and documentation provided during the Meet and Confer session, Finance's findings as articulated in the August 26, 2016 determination letter remain unchanged and still stand. Finance maintains the Agency's obligation under the

Condition to Modify Loan is limited to \$2,500,000. As described in a City report, the following was a condition that may be imposed on the loan modification: "Affirm that the City is obligated to commit a minimum of \$2,500,000 in RDA support over the next ten years (2001/02 to 2010/11) to this Marina, of which \$1,700,000 would be earmarked to a capital outlay reserve fund for the Marina, that could only be used for needed capital outlay projects." DBW's report similarly stated that the above may be imposed as a condition to the loan modification. Beginning July 1, 2003, the former RDA transferred \$62,500 every quarter (January, April, July, and October) to the City as payments toward this condition. From July 1, 2003 to January 1, 2011, the former RDA had paid a total of \$1,937,500 toward this condition.

The Agency argues that because the Condition to Modify Loan provides for a minimum commitment of \$2,500,000, the Agency could pay more than \$2,500,000. However, under Dissolution Law, only minimum required payments by the former RDA (now Agency) are authorized. Pursuant to the 2002 reports by the City and DBW and the course of conduct by the City, DBW, and former RDA (i.e., regularly scheduled quarterly payments of \$62,500) it is only apparent that the City, former RDA, and DBW agreed that the RDA would commit \$2,500,000.

In response to Finance's note that the combined transferred amounts reviewed in its August 26, 2016 determination exceeded \$2,500,000 and Finance's determination that some of the transfers were not authorized because they were not regularly scheduled payments, the Agency contends it was not prohibited from amending the terms of the agreement. Finance disagrees, however, even if this were the case, there is no contemporaneous evidence to support that any agreement to amend the Condition to Modify Loan occurred. Instead, Finance has been provided evidence of quarterly payments of \$62,500, over the course of seven and one-half years and upon the proposal to dissolve RDAs, a payment of \$456,458. As such, the course of conduct indicates the former RDA was committed to pay only \$2,500,000.

In conclusion, as stated in our August 26, 2016 OFA DDR determination letter, Finance approves \$250,000 of the \$768,958 transfers made to the City pursuant to the Condition to Modify Loan. Since the Agency has already transmitted to the county auditor-controller the amount of funds identified in Finance's May 1, 2013 OFA DDR determination letter, the Agency should list the total amount of \$250,000 on the upcoming Recognized Obligation Payment Schedule for the period July 1, 2017 through June 30, 2018 (ROPS 17-18) as a new line item to recover \$250,000 of the previously transmitted amount. To the extent the Agency has past-due unpaid regularly scheduled payments required under the loan modification, the Agency may request funding for these past due amounts on the original ROPS line item for this obligation, however, such request cannot result in total payments for this obligation exceeding \$2,500,000.

In addition, Finance maintains the remaining adjustments stated in our May 1, 2013 OFA DDR determination letter were appropriate.

The Agency's OFA balance available for distribution to the affected taxing entities continues to be \$783,783, as noted in the table at the next page:

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	\$	229,900
Finance Adjustments		
Add:		
Disallowed transfers	\$	540,958
Request to retain balances not supported		12,925
Total OFA available to be distributed:		\$ 783,783

This is Finance's final determination of the OFA balances available for distribution to the taxing entities.

Please direct inquiries to Kylie Oltmann, Supervisor or Nicole Prisakar, Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Program Budget Manager

cc: Mr. Steve Duran, City Manager, City of Antioch
Mr. Bob Campbell, Auditor-Controller, Contra Costa County