



Transmitted via e-mail

April 12, 2021

Brad Farmer, Finance Director  
City of Emeryville  
1333 Park Avenue  
Emeryville, CA 94608

### **2021-22 Annual Recognized Obligation Payment Schedule**

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Emeryville Successor Agency (Agency) submitted an annual Recognized Obligation Payment Schedule for the period July 1, 2021 through June 30, 2022 (ROPS 21-22) to the California Department of Finance (Finance) on January 29, 2021. Finance has completed its review of the ROPS 21-22.

Based on a sample of line items reviewed and application of the law, Finance made the following determinations:

- Item Nos. 123 and 125 – Professional Services Agreement and Loan Agreement between the City of Emeryville (City) and the Agency in the amounts of \$39,000 in Other Funds and \$45,000 in Redevelopment Property Tax Trust Fund (RPTTF), respectively. The Agency authorized a professional services agreement (Agreement) with Environment & Water, Inc. (EKI) on December 15, 2020, in the amount of \$39,000. The Agency intends to use EKI's services to comply with an Imminent and Substantial Endangerment Order issued by the California Department of Toxic Substances Control (DTSC) on August 13, 2020. To fund these professional services, the Agency is requesting to obtain a loan from the City (Item No. 125). The City loan would then be repaid, with interest, during the ROPS 21-22 period.

HSC Section 34173 (h) (1) allows the City to loan funds to the Agency for payment of administrative costs or for approved enforceable obligations, but only to the extent the Agency receives an insufficient distribution from RPTTF or other approved funding sources. The professional services agreement with EKI has not previously been approved as an enforceable obligation in a prior ROPS, nor has there been an insufficient distribution from RPTTF. Therefore, HSC section 34173 (h) is not applicable and the loan is not allowable as an enforceable obligation. The total outstanding balance of \$250,000 and requested amount of \$45,000 for Item No. 125 in RPTTF is not allowed.

Although a loan from the City is not allowed, the Agency still requires funding to satisfy the DTSC order and pay EKI pursuant to the Agreement. It is our understanding the work required by the Agreement has not begun and according to the terms of the Agreement, the Agency shall pay EKI within 45 days after the approval of an invoice by Agency staff. Since no work has begun and there have been no submitted invoices, funding should be available following the ROPS 21-22A distribution to pay the first invoice. Therefore, Finance is reclassifying the requested amount of \$39,000 for Item No. 123 from Other Funds to RPTTF.

- The claimed administrative costs exceed the allowance by \$125,601. HSC section 34171 (b) (3) limits the fiscal year Administrative Cost Allowance (ACA) to three percent of actual RPTTF distributed in the preceding fiscal year or \$250,000, whichever is greater; not to exceed 50 percent of the RPTTF distributed in the preceding fiscal year. As a result, the Agency's maximum ACA is \$360,930 for fiscal year 2021-22.

Although \$486,531 is claimed for ACA, only \$360,930 is available pursuant to the cap. Therefore, as noted in the table below, \$125,601 in excess ACA is not allowed:

<b>Administrative Cost Allowance (ACA) Calculation</b>	
Actual RPTTF distributed for fiscal year 2020-21	\$ 12,435,564
Less distributed Administrative RPTTF	(404,576)
<b>RPTTF distributed for 2020-21 after adjustments</b>	<b>\$ 12,030,988</b>
ACA Cap for 2021-22 per HSC section 34171 (b)	\$360,930
ACA requested for 2021-22 after adjustments	486,531
<b>Total ACA</b>	<b>\$486,531</b>
<b>ACA in Excess of the Cap</b>	<b>\$125,601</b>

Pursuant to HSC section 34186, successor agencies are required to report differences between actual payments and past estimated obligations (prior period adjustments) for the July 1, 2018 through June 30, 2019 (ROPS 18-19) period. The ROPS 18-19 prior period adjustment (PPA) will offset the ROPS 21-22 RPTTF distribution. The amount of RPTTF authorized includes the PPA resulting from the County Auditor-Controller's review of the PPA form submitted by the Agency.

The Agency's maximum approved RPTTF distribution for the reporting period is \$14,981,874, as summarized in the Approved RPTTF Distribution table (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2021 through December 31, 2021 period (ROPS A period), and one distribution for the January 1, 2022 through June 30, 2022 period (ROPS B period), based on Finance's approved amounts. Since this determination is for the entire ROPS 21-22 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

Except for the adjusted items, Finance does not object to the remaining items listed on the ROPS 21-22. If the Agency disagrees with our determination with respect to any items on the ROPS 21-22, except items which are the subject of litigation disputing our previous or related determinations, the Agency may request a Meet and Confer within five business days from the date of this letter. The Meet and Confer process and guidelines are available on our website:

[http://dof.ca.gov/Programs/Redevelopment/Meet\\_And\\_Confer/](http://dof.ca.gov/Programs/Redevelopment/Meet_And_Confer/)

The Agency must use the RAD App to complete and submit its Meet and Confer request form.

Absent a Meet and Confer, this is our final determination regarding the obligations listed on the ROPS 21-22. This determination only applies to items when funding was requested for the 12-month period. If a determination by Finance in a previous ROPS is currently the subject of litigation, the item will continue to reflect the determination until the matter is resolved.

The ROPS 21-22 form submitted by the Agency and this determination letter will be posted on our website:

<http://dof.ca.gov/Programs/Redevelopment/ROPS/>

This determination is effective for the ROPS 21-22 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to Finance's review and may be adjusted even if not adjusted on this ROPS or a preceding ROPS. The only exception is for items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of Final and Conclusive items is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment available prior to the enactment of the redevelopment dissolution law. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax increment is limited to the amount of funding available to the Agency in the RPTTF.

Please direct inquiries to Todd Vermillion, Supervisor, or Jeremy Bunting, Staff, at (916) 322-2985.

Sincerely,

Original signed by Cheryl L. McCormick for:

JENNIFER WHITAKER  
Program Budget Manager

cc: Michael Guina, City Attorney, City of Emeryville  
Jason Guo, Senior Supervising Auditor, Tax Analysis Unit, Alameda County

<b>Approved RPTTF Distribution July 2021 through June 2022</b>			
	<b>ROPS A</b>	<b>ROPS B</b>	<b>Total</b>
RPTTF Requested	\$ 3,100,000	\$ 11,912,288	\$ 15,012,288
Administrative RPTTF Requested	244,000	242,531	486,531
<b>Total RPTTF Requested</b>	<b>3,344,000</b>	<b>12,154,819</b>	<b>15,498,819</b>
<b>RPTTF Requested</b>	<b>3,100,000</b>	<b>11,912,288</b>	<b>15,012,288</b>
<u>Adjustment(s)</u>			
Item No. 123	39,000	0	39,000
Item No. 125	(45,000)	0	(45,000)
	(6,000)	0	(6,000)
<b>RPTTF Authorized</b>	<b>3,094,000</b>	<b>11,912,288</b>	<b>15,006,288</b>
<b>Administrative RPTTF Requested</b>	<b>244,000</b>	<b>242,531</b>	<b>486,531</b>
Excess Administrative Costs	(0)	(125,601)	(125,601)
<b>Administrative RPTTF Authorized</b>	<b>244,000</b>	<b>116,930</b>	<b>360,930</b>
ROPS 18-19 prior period adjustment (PPA)	(385,344)	0	(385,344)
<b>Total RPTTF Approved for Distribution</b>	<b>\$ 2,952,656</b>	<b>\$ 12,029,218</b>	<b>\$ 14,981,874</b>