

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 1
MONDAY, JULY 28, 2014, AT 2:00 PM
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

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Pursuant to California Senate Bill 343 (Section 54957.5(b) of the Brown Act), late-arriving documents related to City Council meeting agenda items which are distributed to the legislative body prior to and during the Council meeting are available for public review in the Office of the City Clerk on the second floor of the City Administration Building, 202 C Street, San Diego, CA 92101. This relates to those documents received after the agenda is publicly noticed and during the 72 hours prior to the start of the meeting. Please note: Approximately one hour prior to the start of the Council Meeting, the documents will be available just outside Council Chambers in the lobby of the 12th floor of the City Administration Building in a binder labeled “SB 343.” Late-arriving materials received during the City Council meeting are available for review by making a verbal request of City Clerk staff located in Council Chambers.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-S400: Approve Certain Actions Related to the Reinstatement of the Loan Agreement for Long-Term Miscellaneous Debt. (Districts 1-9.)

ITEM DESCRIPTION:

It is requested that the City Council approve the Reinstated Loan Agreement between the Successor Agency and the City, on modified terms compared to the Original Loan Agreement consistent with California Health and Safety Code Section 34191.4(b), so that the Successor Agency can repay the Reinstated Loan Amount to the City utilizing monies available from the semi-annual residual balance distributions of the Redevelopment Property Tax Trust Fund (RPTTF) corresponding to each six-month Recognized Obligation Payment Schedule (ROPS).

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2015-47)

Finding and determining that the foregoing recitals are true and correct;

Declaring that the Council received and heard any and all oral and written objections relating to the Reinstated Loan Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are overruled;

Finding that the Long-Term Loans memorialized in the Original Loan Agreement were for legitimate redevelopment purposes;

Approving the Reinstated Loan Agreement, which requires the Successor Agency's repayment to the City of the Reinstated Loan Amount of \$66,411,031.26, utilizing monies available through the semi-annual Redevelopment Property Tax Trust Fund (RPTTF) distributions corresponding to each Recognized Obligation Payment Schedule (ROPS), provided that the Reinstated Loan Amount may be adjusted per Recital H and Section 4(f) of the Reinstated Loan Agreement;

Authorizing and directing the Mayor, or designee, to execute the Reinstated Loan Agreement, on the City's behalf, and to carry out the City's obligations under the Reinstated Loan Agreement.

Authorizing the City Comptroller to accept the Successor Agency's transfer of semi-annual installment payments of the Reinstated Loan Amount to the City under the Reinstated Loan Agreement until the Reinstated Loan Amount has been fully repaid and to allocate all such installment payments as follows: (a) twenty percent (20%) to the City's Low and Moderate Income Housing Asset Fund (Fund No. 200708), to be used by the City, as housing successor to the Redevelopment Agency of the City of San Diego (Former RDA), for valid affordable housing purposes; and (b) eighty percent (80%) to the various City funds associated with the Long-Term Loans, consistent with the loan funding sources identified in Exhibit A to the Original Loan Agreement;

Declaring that the City reserves all of its legal rights and remedies with respect to the State's prior invalidation of the Original Loan Agreement. The actions taken in this Resolution are not intended as, and shall not constitute, a waiver by the City or the Successor Agency of their right to challenge, in any pending or future litigation, the State's invalidation of the Original Loan Agreement.

Subitem-B: (R-2015-48)

SUB-ITEM B is being presented to the Council in its capacity as the board of the local redevelopment successor agency, officially known as “the City of San Diego, solely in its capacity as the designated successor agency of the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic” (Successor Agency). (Rev. 7/25/14)

Finding and determining that the foregoing recitals are true and correct;

Declaring that the Council received and heard any and all oral and written objections relating to the Reinstated Loan Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are overruled;

Finding that the Long-Term Loans memorialized in the Original Loan Agreement were for legitimate redevelopment purposes;

Approving the Reinstated Loan Agreement, which requires the Successor Agency’s repayment to the City of the Reinstated Loan Amount of \$66,411,031.26, utilizing monies available through the semi-annual RPTTF distributions corresponding to each ROPS, provided that the Reinstated Loan Amount may be adjusted per Recital H and Section 4(f) of the Reinstated Loan Agreement;

Authorizing and directing the Mayor, or designee, to execute the Reinstated Loan Agreement, on the Successor Agency’s behalf, and to carry out the Successor Agency’s obligations under the Reinstated Loan Agreement;

Authorizing and directing the Successor Agency staff to include the Reinstated Loan Agreement, including the full repayment of the Reinstated Loan Amount plus accrued interest, as an enforceable obligation line item in ROPS 14-15B and to request an allocation of property taxes for this purpose from the residual balance of the RPTTF on a semi-annual basis in ROPS 14-15B and in each ensuing ROPS to the extent that sufficient funds are available in the residual balance under the formula in California Health and Safety Code Section 34191.4(b)(2) imposing a maximum annual limitation on aggregate repayments toward Reinstated Loan Agreements;

Authorizing the City Comptroller to cause the Successor Agency’s transfer of all semi-annual installment payments of the Reinstated Loan Amount to the City under the Reinstated Loan Agreement until the Reinstated Loan Amount has been fully repaid and to allocate all such installment payments as follows: (a) twenty percent (20%) to the City’s Low and Moderate Income Housing Asset Fund (Fund No. 200708), to be used by the City, as housing successor to the Former RDA, for valid affordable housing purposes; and (b) eighty percent (80%) to the various City funds associated with the Long-Term Loans, consistent with the loan funding sources identified in Exhibit A to the Original Loan Agreement;

Declaring that the Successor Agency reserves all of its legal rights and remedies with respect to the State's prior invalidation of the Original Loan Agreement. The actions taken in this Resolution are not intended as, and shall not constitute, a waiver by the City or the Successor Agency of their right to challenge, in any pending or future litigation, the State's invalidation of the Original Loan Agreement.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Under the 50% Increase Formula described in California Health and Safety Code Section 34191.4(b)(2)(A), the aggregate amount of payments made by the Successor Agency to the City toward reinstated loans in any given fiscal year is capped at an amount equal to fifty percent (50%) of the increase between the residual balance amount distributed to the local taxing entities during the 2012-2013 Base Fiscal Year and the actual residual balance amount distributed to the local taxing entities during the Comparison Fiscal Year. The residual balance amount distributed in the 2012-2013 Base Year is approximately \$34.6 million. The residual balance amount distributed in the 2013-2014 Comparison Year is approximately \$53.9 million. After applying the 50% Increase Formula, the aggregate amount of payments toward reinstated loans to be made in the 2014-2015 Fiscal Year, which corresponds to the calculation for the 2013-2014 Comparison Year, is approximately \$9.66 million.

The Successor Agency will request repayment of the Reinstated Loan Amount (together with any other reinstated loan amount) up to the initial annual cap of \$9.66 million in Recognized Obligation Payment Schedule (ROPS) 14-15B, which covers the second half of the 2014-2015 Fiscal Year. The Successor Agency will cause 20% of the loan repayment amounts to be deposited into the City's Housing Fund, to be used by the City, as housing successor to the Redevelopment Agency of the City of San Diego (Former RDA), for valid affordable housing purposes. The Successor Agency will cause the remaining 80% of the loan repayment amounts to be deposited into the various City's Funds associated with the original debt. As a result of the modified terms affecting the Reinstated Loan Agreement, the City's General Fund is expected to receive substantially less funds under the Reinstated Loan Agreement than would have been received under the Original Loan Agreement. The modified terms include, for example, the retroactive recalculation of accumulated interest at the very low Local Agency Investment Fund (LAIF) Rate, the application of the LAIF Rate to the future accrual of interest, and the transfer of 20% of loan repayments into the Housing Fund. Although the California Department of Finance (DOF's) decision to invalidate the Original Loan Agreement is being challenged in a pending appeal from an adverse trial court outcome, it is uncertain whether the City and the Successor Agency will prevail in the appeal. Thus, any repayments received under the Reinstated Loan Agreement could represent revenue that will not otherwise be obtained by the City.

The amount of funds available under the 50% Increase Formula for repayment of reinstated loans in the 2015-2016 Fiscal Year and beyond is uncertain at this time and will depend on a number of factors. This amount for the 2015-2016 Fiscal Year will be identified in January 2015, after the County Auditor has completed the Redevelopment Property Tax Trust Fund (RPTTF) distribution corresponding to ROPS 14-15B.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On February 28, 2011, the City Council approved the Original Loan Agreement.
- On January 10, 2012, the City Council designated the City to serve as the Successor Agency.
- On February 13, 2012, the City Council adopted a resolution establishing certain policies and procedures that govern operation of the Successor Agency.
- On February 10, 2014, the City Council approved the reinstatement of the Convention Center Phase II Bond Debt Reimbursement Agreement under California Health and Safety Code Section 34191.4(b).

Phillips/Graham

Primary Contact\Phone: Wanda Nations\619-533-7109, MS 51D

City Attorney Contact: Will, Brant C. and Reisch, Kevin

ITEM-S401: Approve Certain Actions Related to the Reinstatement of the Loan Agreement for Naval Training Center (NTC) Site Purchase. (Districts 1-9.)

ITEM DESCRIPTION:

It is requested that the City Council approve the Reinstated Loan Agreement between the Successor Agency and the City, on modified terms compared to the Original Loan Agreement consistent with California Health and Safety Code Section 34191.4(b), so that the Successor Agency can repay the Reinstated Loan Amount to the City utilizing monies available from the semi-annual residual balance distributions of the Redevelopment Property Tax Trust Fund (RPTTF) corresponding to each six-month Recognized Obligation Payment Schedule (ROPS).

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2015-45)

Finding and determining that the foregoing recitals are true and correct;

Declaring that the Council received and heard any and all oral and written objections relating to the Reinstated Loan Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are overruled;

Finding that the Naval Training Center (NTC) purchase price loan memorialized in the Original Loan Agreement was for legitimate redevelopment purposes;

Approving the Reinstated Loan Agreement, which requires the Successor Agency's repayment to the City of the Reinstated Loan Amount of \$8,532,169, utilizing monies available through the semi-annual Redevelopment Property Tax Trust Fund (RPTTF) distributions corresponding to each Recognized Obligation Payment Schedule (ROPS), provided that the Reinstated Loan Amount may be adjusted per Recital H and Section 4(f) of the Reinstated Loan Agreement;

Authorizing and directing the Mayor, or designee, to execute the Reinstated Loan Agreement, on the City's behalf, and to carry out the City's obligations under the Reinstated Loan Agreement;

Authorizing the City Comptroller to accept the Successor Agency's transfer of semi-annual installment payments of the Reinstated Loan Amount to the City under the Reinstated Loan Agreement until the Reinstated Loan Amount has been fully repaid and to allocate all such installment payments as follows: (a) twenty percent (20%) to the City's Low and Moderate Income Housing Asset Fund (Fund No. 200708), to be used by the City, as housing successor to the Redevelopment Agency of the City of San Diego (Former RDA), for valid affordable housing purposes; and (b) eighty percent (80%) to the City's Capital Outlay Fund, consistent with the provisions of San Diego Charter Section 77.

Subitem-B: (R-2015-46)

SUB-ITEM B is being presented to the Council in its capacity as the board of the local redevelopment successor agency, officially known as “the City of San Diego, solely in its capacity as the designated successor agency of the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic” (Successor Agency). (Rev. 7/25/14)

Finding and determining that the foregoing recitals are true and correct;

Declaring that the Council received and heard any and all oral and written objections relating to the Reinstated Loan Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are overruled;

Finding that the NTC purchase price loan memorialized in the Original Loan Agreement was for legitimate redevelopment purposes;

Approving the Reinstated Loan Agreement, which requires the Successor Agency’s repayment to the City of the Reinstated Loan Amount of \$8,532,169, utilizing monies available through the semi-annual RPTTF distributions corresponding to each ROPS, provided that the Reinstated Loan Amount may be adjusted per Recital H and Section 4(f) of the Reinstated Loan Agreement;

Authorizing and directing the Mayor, or designee, to execute the Reinstated Loan Agreement, on the Successor Agency’s behalf, and to carry out the Successor Agency’s obligations under the Reinstated Loan Agreement;

Authorizing and directing the Successor Agency staff to include the Reinstated Loan Agreement, including the full repayment of the Reinstated Loan Amount plus accrued interest, as an enforceable obligation line item in ROPS 14-15B and to request an allocation of property taxes for this purpose from the residual balance of the RPTTF on a semi-annual basis in ROPS 14-15B and in each ensuing ROPS to the extent that sufficient funds are available in the residual balance under the formula in California Health and Safety Code Section 34191.4(b)(2) imposing a maximum annual limitation on aggregate repayments toward Reinstated Loan Agreements;

Authorizing the City Comptroller to cause the Successor Agency’s transfer of all semi-annual installment payments of the Reinstated Loan Amount to the City under the Reinstated Loan Agreement until the Reinstated Loan Amount has been fully repaid and to allocate all such installment payments as follows: (a) twenty percent (20%) to the City’s Low and Moderate Income Housing Asset Fund (Fund No. 200708), to be used by the City, as housing successor to the Former RDA, for valid affordable housing purposes; and (b) eighty percent (80%) to the City’s Capital Outlay Fund, consistent with the provisions of San Diego Charter Section 77.

STAFF SUPPORTING INFORMATION:**FISCAL CONSIDERATIONS:**

Under the 50% Increase Formula described in California Health and Safety Code Section 34191.4(b)(2)(A), the aggregate amount of payments made by the Successor Agency to the City toward reinstated loans in any given fiscal year is capped at an amount equal to fifty percent (50%) of the increase between the residual balance amount distributed to the local taxing entities during the 2012-2013 Base Fiscal Year and the actual residual balance amount distributed to the local taxing entities during the Comparison Fiscal Year. The residual balance amount distributed in the 2012-2013 Base Year is approximately \$34.6 million. The residual balance amount distributed in the 2013-2014 Comparison Year is approximately \$53.9 million. After applying the 50% Increase Formula, the aggregate amount of payments toward reinstated loans to be made in the 2014-2015 Fiscal Year, which corresponds to the calculation for the 2013-2014 Comparison Year, is approximately \$9.66 million.

The Successor Agency will request repayment of the Reinstated Loan Amount (together with any other reinstated loan amount) up to the initial annual cap of \$9.66 million in Recognized Obligation Payment Schedule (ROPS) 14-15B, which covers the second half of the 2014-2015 Fiscal Year. The Successor Agency will cause 20% of the loan repayment amounts to be deposited into the City's Housing Fund, to be used by the City, as housing successor to the Redevelopment Agency of the City of San Diego (Former RDA), for valid affordable housing purposes. The Successor Agency will cause the remaining 80% of the loan repayment amounts to be deposited into the City's Capital Outlay Fund. As a result of the modified terms affecting the Reinstated Loan Agreement, the City's General Fund is expected to receive substantially less funds under the Reinstated Loan Agreement than would have been received under the Original Loan Agreement. The modified terms include, for example, the retroactive recalculation of accumulated interest at the very low Local Agency Investment Fund (LAIF) Rate, the application of the LAIF Rate to the future accrual of interest, and the transfer of 20% of loan repayments into the Housing Fund. However, the California Department of Finance (DOF's) presumed invalidation of the Original Loan Agreement is not being challenged in litigation, such that any repayments received under the Reinstated Loan Agreement will represent revenue that presently could not be obtained by the City through any other means.

The amount of funds available under the 50% Increase Formula for repayment of reinstated loans in the 2015-2016 Fiscal Year and beyond is uncertain at this time and will depend on a number of factors. This amount for the 2015-2016 Fiscal Year will be identified in January 2015, after the County Auditor has completed the Redevelopment Property Tax Trust Fund (RPTTF) distribution corresponding to ROPS 14-15B.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- The City Council has approved various actions related to the formation of the Project Area and the implementation of the Naval Training Center (NTC) Disposition and Development Agreement (DDA) since the late 1990s.
- On January 10, 2012, the City Council designated the City to serve as the Successor Agency.
- On February 13, 2012, the City Council adopted a resolution establishing certain policies and procedures that govern operation of the Successor Agency.
- On February 10, 2014, the City Council approved the reinstatement of the Convention Center Phase II Bond Debt Reimbursement Agreement under California Health and Safety Code Section 34191.4(b).

Phillips/Graham

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City Attorney Contact: Will, Brant C. and Reisch, Kevin