



Item #8

DATE ISSUED: January 15, 2009

ATTENTION: Centre City Development Corporation
Meeting of January 21, 2009, Agenda 674

SUBJECT: Repayment Agreement between the Redevelopment Agency and
the City of San Diego – General

STAFF CONTACT: Frank Alessi, Vice President and Chief Financial Officer

REQUESTED ACTION: That the Centre City Development Corporation (“Corporation”) recommend that the Redevelopment Agency (“Agency”) and the City Council approve a Repayment Agreement between the Agency and the City relating to the Centre City Redevelopment Project Area.

STAFF RECOMMENDATION: That the Corporation recommend that the Agency and the City Council approve a Repayment Agreement between the Agency and the City relating to the Centre City Redevelopment Project Area.

SUMMARY: During early years of redevelopment, the downtown Centre City Redevelopment Project Area received advances from the City of San Diego (City”) which included \$16.5 million of Federal Community Development Block Grant (CDBG) funds; \$26 million of City General Fund Revenue Sales Tax, Transient Occupancy Tax (TOT), and Water and Sewer funds. Over the past 30 years, interest was added to the principal amounts indicated. Repayments have been made including interest that totaled approximately \$81 million. These repayments were associated with the repayment of all Sales Taxes and TOT funds which were repaid to the General Fund. Presently, all General Fund Revenues have been repaid. As of June 30, 2008, a total of \$116.3 million remains outstanding consisting of \$114.6 million of CDBG funds and \$1.7 million of Water and Sewer funds.

The City experienced declining revenues in Fiscal Year 2008 and, with the continuation of slow economic growth, a further reduction of City revenues is expected. To mitigate the City’s financial constraints, a Second Amendment to the Ballpark Cooperation Agreement is proposed on a separate agenda item that provides for payments from the Agency to the City for certain debt service on the Ballpark Bonds. In addition, this item provides for a schedule for the

repayment of CDBG funds including interest accrued to date as described in Attachment A – Repayment Agreement.

FISCAL CONSIDERATIONS: The repayment amounts total \$116,287,439 over a period of eight years from Fiscal Year 2014 through Fiscal Year 2021 and consist of a \$10 million annual payment for the first five years; a \$15 million payment in Year 2019; a \$20 million payment in year 2020; and a final payment of \$31,287 million in Year 2021.

COMMITTEE RECOMMENDATIONS: On January 7, 2009, the Budget/Finance and Administration Committee voted unanimously (Brown, Cruz, Kilkenny, LeSar, McNeely, Shaw) to approve a Repayment Agreement between the Agency and the City relating to the Centre City Redevelopment Project Area.

CENTRE CITY ADVISORY COMMITTEE RECOMMENDATION: On January 14, 2009, the Centre City Advisory Committee voted (23) and the Project Area Committee voted (21) unanimously to recommend approval of a Repayment Agreement between the Agency and the City relating to the Centre City Redevelopment Project Area with no further interest accrual from June 2008 and with a delayed repayment schedule from that which is being proposed.

CHANGES SINCE BOARD COMMITTEE MEETING: **This item has not changed since the Committee action noted above.**

BACKGROUND: During the period from 1977-1984 the Centre City Redevelopment Project Area was capitalized with \$26 million of City General Fund Revenue (i.e. sales tax, TOT funds) and \$16.5 million of CDBG allocations. This capital or equity from the City was recorded initially as a non-interest bearing debt to the City. This debt was to be subordinate to all other debt of the Agency and repaid on a subordinate basis as redevelopment was approaching completion. The Corporation utilized these funds for land acquisition for early implementation of redevelopment and the construction of public improvements which included sewer, water, storm drains, parks, sidewalks, curbs, gutters, and street lights. In 1981, interest was added to all debt to provide the City an additional return on the investment which has resulted in larger amounts due to the City. From 1990 to 2005 approximately \$81 million was paid back to the General Fund. Presently all General Fund Revenues have been repaid. As of June 30, 2008, a total of \$116.3 million remains outstanding consisting of \$114.6 million of Federal CDBG funds (original amount was \$16.5 million) and \$1.7 million of Water and Sewer funds.

DISCUSSION: The repayment of loans to the City has always been contemplated in the long-term financing plans of the downtown redevelopment project areas. As previously indicated the repayments were expected to occur in the later years of redevelopment. However, with the combination of the extraordinary success of downtown redevelopment and the current fiscal crisis of the City, this Repayment Agreement along with the Second Amendment to the Ballpark Cooperation Agreement are proposed to facilitate immediate relief to the City by having the Agency pay amounts toward the City's debt service on the Ballpark Bonds and establish a repayment schedule for the outstanding loans remaining on the books of the Centre City Redevelopment Project Area. In summary the Agency will make payments of \$116,287,439

pursuant to this Repayment Agreement for CDBG and Water and Sewer funds and \$56.6 of debt service payments on the Ballpark Bonds pursuant to another agreement for a total of \$172.9 million. The proposed repayment of the outstanding loans would discontinue any additional interest on the balances in future years beginning in FY2009.

ENVIRONMENTAL IMPACT: This activity is not a project, and is therefore not subject to CEQA per CEQA Guidelines Section 15060(c)(3).

CONCLUSION: The City experienced declining revenues in Fiscal Year 2008 and, with the continuation of slow economic growth, a further reduction of City revenues is expected. To mitigate the City's financial constraints, a Second Amendment to the Ballpark Cooperation Agreement and this Repayment Agreement are proposed that provides payments from the Agency to the City.

Respectfully submitted,

Concurred by:

Frank J. Alessi
Vice President and Chief Financial Officer

Barbara A. Kaiser
Vice President – Real Estate Operations

Attachment: Attachment A – Repayment Agreement

REPAYMENT AGREEMENT

THIS REPYAMENT AGREEMENT (this "Agreement") is entered into by and between the Redevelopment Agency of the City of San Diego, a public body corporate and politic (the "Agency") and the City of San Diego, a municipal cooperation (the "City").

WHEREAS, the Redevelopment Plan for the Centre City Redevelopment Project (the "Centre City Redevelopment Project") was approved and adopted on May 11, 1992 by the City Council of the City of San Diego by Ordinance No. O-17767[NS], and was amended by the City Council on November 28, 1994 by Ordinance No. O-18119[NS], on January 9, 1995 by Ordinance No. O-18145[NS], on November 8, 1999 by Ordinance No. O-18708[NS], on November 8, 1999 by Ordinance No. O-18710[NS], on November 22, 1999 by Ordinance No. O-18720[NS], on September 12, 2000 by Ordinance No. O-18843[NS], on December 9, 2002 by Ordinance No. O-19132[NS], on April 12, 2004 by Ordinance Nos. O-19270[NS] and O-19271[NS], on April 3, 2006 by Ordinance No. O-19471[NS], on April 7, 2006 by Ordinance No. O-19479[NS], and on September 4, 2007 by Ordinance No. O-19663[NS] (the "Centre City Redevelopment Plan"); and

WHEREAS, the Implementation Plans for the Centre City and Horton Plaza Redevelopment Projects (July 2004-June 2009) was approved and adopted on June 15, 2004 by the Agency by Resolution No. R-03771, on file in the office of the Secretary of the Agency as Document No. 03771, as amended on October 24, 2006 (collectively, the "Implementation Plan") providing for the implementation of certain activities necessary or appropriate to carry out the Centre City Redevelopment Plan. The Implementation Plan covers the five-year period of July 2004 through June 2009. Previous Implementation Plans were adopted in 1994, as amended in 1997, covering the period July 1994 through June 1999, and adopted in July 1999, as amended in October 1999, covering the period July 1999 through 2004; and

WHEREAS, pursuant to the provisions of the California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.), the Agency is engaged in activities necessary to execute and implement the Centre City Redevelopment Plan for the Centre City Redevelopment Project; and

WHEREAS, pursuant to Section 33600 of the California Community Redevelopment Law (Health & Safety Code, Section 33000 et seq.), the Agency may accept financial assistance from any public source for the Agency's activities, powers, and duties, and expend any funds so received for purposes of executing and implementing the Centre City Redevelopment Plan for the Centre City Redevelopment Project; and

WHEREAS, pursuant to Section 33601 of the California Community Redevelopment Law (Health & Safety Code, Section 33000 et seq.), the Agency may borrow or accept financial assistance from the state or federal government or any other public agency for any redevelopment project within its area of operation, and may comply with any conditions of such

loan or grant; and

WHEREAS, the Agency, acting to carry out its public purposes of executing and implementing the Redevelopment Plan for the Centre City Redevelopment Project under the California Community Redevelopment Law (Health & Safety Code, Section 33000 et seq.), borrowed money from the City (the "Indebtedness"); and

WHEREAS, as of June 30, 2008 the Centre City Redevelopment Project has an indebtedness to the City of San Diego of ONE HUNDRED SIXTEEN MILLION TWO HUNDRED EIGHTY SEVEN THOUSAND FOUR HUNDRED THIRTY NINE DOLLARS (\$116,287,439) which is comprised of FORTY THREE MILLION ONE HUNDRED EIGHTY FOUR THOUSAND FOUR HUNDRED SEVEN DOLLARS (\$43,184,407) of Original Principal (the "Original Principal") and SEVENTY THREE MILLION ONE HUNDRED THREE THOUSAND THIRTY TWO DOLLARS (\$73,103,032) of Accrued Interest (the "Accrued Interest").

WHEREAS, the Agency seeks to provide a scheduled repayment from tax increment funds or other revenues of the Centre City Redevelopment Project in the total amount of ONE HUNDRED SIXTEEN MILLION TWO HUNDRED EIGHTY SEVEN THOUSAND FOUR HUNDRED THIRTY NINE DOLLARS (\$116,287,439) for that Indebtedness (the "Indebtedness Amount") to the City on terms mutually agreeable to both the City and the Agency as set forth more clearly in that certain schedule of repayments (the "Schedule of Repayments") attached hereto as Exhibit A, as consideration for the City to cease accruing any interest for that Indebtedness Amount on the Indebtedness as long as the Agency makes such scheduled repayments.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises contained herein, the parties hereto agree as follows:

SECTION 100 AGENCY'S SCHEDULED REPAYMENTS

In accordance with, subject to, and conditioned on all the terms, covenants, and conditions of this Agreement, the City agrees to receive from the Agency the scheduled repayments for that Indebtedness Amount as set forth in Exhibit A and to cease accruing any interest for that Indebtedness Amount as long as the Agency makes such scheduled repayments.

In accordance with, subject to, and conditioned on all the terms, covenants, and conditions of this Agreement, the Agency agrees to provide the scheduled repayments as set forth in Exhibit A for that Indebtedness Amount as consideration set forth herein.

SECTION 200 AMOUNT OF AGENCY REPAYMENT OF THE INDEBTEDNESS

The Agency shall pay from land proceeds and tax increment funds or other revenues of the Centre City Redevelopment Project the total amount of ONE HUNDRED SIXTEEN

MILLION TWO HUNDRED EIGHTY SEVEN THOUSAND FOUR HUNDRED THIRTY NINE DOLLARS (\$116,287,439) to repay the Indebtedness to the City according to the Schedule of Repayments in Exhibit A, for the purposes specified herein.

SECTION 300 BOOKS AND ACCOUNTS

The Agency and the City shall keep full and accurate books and accounts, records and other pertinent data showing their financial operations with respect to the holding and disbursement of the monies comprising the repayments provided for in this Agreement. Upon completion of the activities contemplated by this Agreement, the Agency and the City shall prepare a report accounting for the use of the funds.

SECTION 400 SUBORDINATION OF INDEBTEDNESS

The obligations and any indebtedness of the Agency to the City created by this Agreement is subordinate to any pledge of tax increments to the bond holders of any tax increment bonds which have been or may be issued by the Agency.

SECTION 500 LIABILITY AND INDEMNIFICATION

Section 501 No Joint and Several Liability. The parties acknowledge and agree that as stated in Government Code section 895, this Agreement is an agreement between public entities designed to implement the disbursement or subvention of public funds from one entity to the other and, as such, is not subject to the joint and several liability provisions of Government Code sections 895 to 895.8.

Section 502 Indemnification.

City agrees to defend, indemnify, protect, and hold Agency and all of its officers, agents, and employees harmless from any and all actions, suits, proceedings, liability, loss, expense (including all expenses of investigation and defending against the same), and all claims for injury or damages to any person, arising out of the performance of this Agreement or any agreement entered into to implement this Agreement, but only in proportion to and to the extent such actions, suits, proceedings, liability, loss, expense or claims for injury or damages are caused by, or result from, the negligent or intentional acts or omissions of Agency, its officers, agents, or employees.

Agency agrees to defend, indemnify, protect, and hold City and all of its officers, agents, and employees harmless from any and all actions, suits, proceedings, liability, loss, expense (including all expenses of investigation and defending against same), and all claims for injury or damages to any person, arising out of the performance of this Agreement or any agreement entered into to implement this Agreement, but only in proportion to and to the extent such actions, suits, proceedings, liability, loss, expense or claims for injury or damages are caused by, or result from, the negligent or intentional acts or omissions of Agency, its officers, agents, or employees.

The provisions of this section shall survive the expiration, termination, or assignment of this Agreement.

SECTION 600 GENERAL PROVISIONS

Section 601 No Third-Party Beneficiary. The terms of this Agreement are only for the benefit of the Agency and the City, and there are no other intended or incidental third party beneficiaries hereto.

Section 602 Entire Agreement. This Agreement constitutes the entire Agreement between the Agency and the City.

Section 603 No Waiver. No failure of either the Agency or the City to insist upon strict performance by the other of any covenant, term or condition of the Agreement, nor any failure to exercise any right or remedy consequent upon a breach, shall constitute a waiver of any such breach of such covenant, term or condition.

Section 604 Amendments. This Agreement may be amended any number of times upon the mutual approval of the Agency and the City.

Section 605 California Law. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

Section 606 Institution of Legal Actions. In addition to any other legal rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in a court of competent jurisdiction in the County of San Diego, California.

Section 607 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all parties had executed the same page.

Section 608 Integration. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or part of the subject matter hereof.

[Intentionally left blank]

IN WITNESS WHEREOF, this Agreement is executed by the Redevelopment Agency of the City of San Diego by and through its Executive Director, or designee, and this Agreement is executed by the City of San Diego by its Mayor, or designee.

REDEVELOPMENT AGENCY
OF CITY OF SAN DIEGO

Date: _____

By: _____

APPROVED AS TO FORM AND LEGALITY:
JAN I. GOLDSMITH, General Counsel

By: _____
Deputy City Attorney

KANE, BALLMER & BERKMAN

By: _____
Murray O. Kane
Agency Special Counsel

CITY OF SAN DIEGO

Date: _____

By: _____

APPROVED AS TO FORM AND LEGALITY:
JAN I. GOLDSMITH, City Attorney

By: _____
Deputy City Attorney

EXHIBIT A

Schedule of Repayments

Fiscal Year	Repayments
2014	\$10,000,000
2015	\$10,000,000
2016	\$10,000,000
2017	\$10,000,000
2018	\$10,000,000
2019	\$15,000,000
2020	\$20,000,000
2021	\$31,287,439
Total:	\$116,287,439