

City of Brisbane

Agenda Report

TO: Mayor and City Council

FROM: City Manager, City Attorney, Director of Administrative Services

SUBJECT: Agreement between City and Redevelopment Agency
Confirming Existing Indebtedness of Agency

DATE: For Council Meeting on February 7, 2011

City Council Goals:

To develop management and fiscal systems to maximize effectiveness of city services and accountability to Brisbane taxpayers and citizens. [#11]

Purpose:

The purpose of this agreement is to confirm the nature and amount of existing obligations owed by the Brisbane Redevelopment Agency to the City and to other parties.

Recommendation:

Approve the Agreement and authorize the Mayor/Agency Chair and the City Clerk/Agency Secretary to execute the Agreement on behalf of the City and the Agency.

Background and Discussion:

The Governor has proposed the abolition of all redevelopment agencies throughout the State. Although this proposal was immediately met with strong opposition, it is unknown at this time whether any such action will be taken and if so, what the effect of such action may be on existing redevelopment agencies. However, even the Governor has apparently recognized that the State cannot legally impair existing contracts and obligations – for example the obligation of redevelopment agencies to pay outstanding indebtedness on bonds it has issued.

During its existence, the Brisbane Redevelopment Agency has incurred various types of financial obligations that are still outstanding. In some cases, these obligations are the result of loans made to the Agency by the City, all of which have been documented on financial records of the City and the Agency but have not been summarized in a separate

agreement between the Agency and the City. Until recently, this was not a problem but in view of the proposal to abolish redevelopment agencies, staff feels it would be appropriate for the City and the Agency to execute a written confirmation of the existing indebtedness owed by the Agency to the City which is required to be repaid before the Agency can legally be terminated.

When the proposal to abolish redevelopment agencies was first announced, some cities scrambled to issue new bonds and create new indebtedness, with the hope of protecting Agency funds from seizure by the State. Brisbane is not engaging in this tactic. The Agreement will only serve to confirm the existence of outstanding indebtedness, some of which originated decades ago. No new obligations are being assumed or imposed upon the Agency by virtue of this Agreement. If the proposal to abolish redevelopment agencies is abandoned, all of the obligations described in the Agreement will still exist as before.

Fiscal Impact:

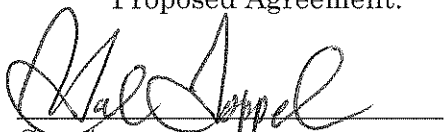
None. As stated above, the Agreement only confirms the nature and amount of existing Agency indebtedness and does not impose any new obligations.

Measure of Success:

The Agreement is intended as a precaution against a future attempt by the State to seize or divert funds belonging or payable to the Agency. Should that circumstance occur, the success of the Agreement would be measured by the extent to which such a seizure or diversion is prevented.

Attachments:

Proposed Agreement.


City Attorney


City Manager

AGREEMENT CONFIRMING EXISTING INDEBTEDNESS

THIS AGREEMENT, effective as of _____, 2011, by and between THE CITY OF BRISBANE, a municipal corporation ("City"), and THE REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE, a public agency ("Agency"), is made with reference to the following facts:

A. Agency is the duly established and currently operating Redevelopment Agency for the City of Brisbane.

B. From time to time, City provided financial assistance to Agency in the form of loans that were utilized by Agency for payment of its debts, obligations, and operating expenses.

C. A proposal has been made by the Governor of California to abolish redevelopment agencies throughout the State, the details of which are not yet known, nor can it be determined at this time whether all or any portion of such proposal will be enacted into law.

D. The parties to this Agreement believe that the State cannot legally impair existing debts and obligations owed by Agency to City and Agency cannot be abolished until such debts and obligations have been repaid in full.

E. The purpose of this Agreement is to confirm the nature and amount of the existing debts and obligations owed by Agency to City in order to preserve the collection of such indebtedness in the event an attempt is made by the State of California to abolish redevelopment agencies.

NOW, THEREFORE, the parties agree as follows:

1. **Debts Owed to City.** The parties acknowledge that as of the date of this Agreement, Agency is indebted to City for repayment of the following obligations:

- (a) Loan for Refinancing of Agency Bonded Indebtedness. In connection with the refinancing of the 2001 Series A Bonds issued by Agency pertaining to Redevelopment Project Area No. 1, City's Marina fund advanced \$2,295,995.92 to the Brisbane Public Finance Authority which, in turn, advanced the same amount to Agency. Such loan remains outstanding and Redevelopment Project Area No. 1 pays interest thereon to the Marina fund.
- (b) Loans for Agency Operating Expenses. From time to time, City has made loans to Agency for payment of various cash shortfalls. According to the books and records of City, various transfers totaling \$923,126 were made prior to 1999, a transfer of \$110,000 was made in June, 1999, and a further transfer of \$259,982 was made in June, 2000, for a total of \$1,293,108.
- (c) Agency Contribution for Debt Service. Redevelopment Project Area No. 2 pays 66.67% of the debt service on the \$3,265,000 Brisbane Public Finance Authority 2005 refunding bonds. The balance of the debt service is paid by City. The original bond proceeds were utilized in 1988 to finance public facilities that benefited both Agency and City.

2. **Other Agency Obligations.** In addition to the indebtedness owed to City, Agency is obligated for payment of the following obligations:

- (a) Debt Service on Agency Bonds. Redevelopment Project Area No. 1 pays debt service on the 2001 \$15,000,000 refunding bond issue which, in turn, pays the debt service on the \$26,300,000 2001 Series A Bonds issued by the Brisbane Public Finance Agency.
- (b) Deficit in Low and Moderate Income Housing Fund. Because the obligation of Agency to pay debt service on its bonded indebtedness has priority over the responsibility of Agency to make deposits to the Low and Moderate Income Housing Fund, a deficit has accumulated in such Fund which is required to be repaid. On December 13, 1999, Agency adopted Resolution No. RA-99-05 adopting a Plan For Repayment of Deficit In Low and Moderate Income Housing Fund. As of the date of this Agreement, the deficit owed by the Agency to the Fund is the sum of \$4,099,278.
- (c) Repayment of Funds Advanced for ERAF Obligation. Agency's Low and Moderate Income Housing Fund was utilized for a payment to the State of California in the amount of \$1,217,528, to satisfy the Supplemental ERAF obligation imposed by the State. This amount is required to be repaid to the Low and Moderate Income Housing Fund within two years.
- (d) Contractual Obligation Under Purchase Agreement. Agency has entered into a contract with Melinda Lau and Esther Lau to purchase 4 parcels of vacant land for a total purchase price of \$1,980,000, plus closing costs. Agency intends to transfer such land to Habitat for Humanity for development of affordable housing thereon. Such development will also require Agency to acquire additional right-of-way from adjacent land owners necessary for

street access to the project, the cost of which has not yet been determined. Closing of the sale escrow has been delayed while the seller completes pending litigation to clear an encumbrance from the legal title to the property.

3. Nothing in this Agreement shall be deemed to create any new indebtedness change the terms of repayment of any existing indebtedness owed by Agency to City.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first above written.

CITY OF BRISBANE,
a municipal corporation

By: _____
Cyril G. Bologoff, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

Harold S. Toppel, City Attorney

REDEVELOPMENT AGENCY
OF THE CITY OF BRISBANE
a public agency

By: _____
Cyril G. Bologoff, Chair

ATTEST:

Sheri Marie Spediacci, Secretary

APPROVED AS TO FORM:

Harold S. Toppel, Agency Counsel