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CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

DENA DIORIO
DIRECTOR OF FINANCE

(203)797-4652
FAX: (203)796-1526

MEMORANDUM

TO: Mark D. Boughton via the Common Council

FROM: Dena R. Diorio, Director of Finance and Personnel *Dena*

DATE: June 29, 2004

SUBJECT: Resolution – RDA Parcel 9

Attached please find a proposed resolution that would allow the City of Danbury to enter into an agreement with the Connecticut Brownfields Redevelopment Authority (CBRA) a subsidiary of the Connecticut Development Authority (CDA).

As you may recall, at is April meeting, the Common Council approved a resolution permitting the City to apply for a loan through CBRA for the remediation of RDA Parcel 9. The property is slated for private development and the construction of a 20,000 square foot office building. The loan from CBRA would be up to \$500,000 and would be repaid through the incremental property tax revenues once the project is complete. The item was referred to an ad hoc committee, which met on March 30, 2004 and recommended approval to the full Council.

The attached resolution is a requirement of the CBRA, and upon approval allows for the assignment of the incremental tax revenues to CBRA to repay the loan. The City's participation in and obligations under this resolution are contingent upon the successful negotiation of the Redevelopment Agreement and transfer of title of the property to the developer.

I am requesting that the Common Council consider this resolution at its July meeting. Please feel free to contact me should you require any additional information. Thank you.

C: Dan Casagrande, Pinney Payne. P.C.



RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

_____ A. D., 200__

RESOLVED by the Common Council of the City of Danbury:

RESOLUTIONS FOR ASSIGNMENT OF CERTAIN INCREMENTAL TAX REVENUES TO CBRA

WHEREAS, pursuant to Public Act 01-179 and Sections 32-1a through 32-23yy of the Connecticut General Statutes, as amended by Public Act 01-179 (together the "Enabling Legislation"), for the purpose of assisting a "remediation project", as defined in the Enabling Legislation, the Connecticut Brownfields Redevelopment Authority (the "CBRA"), a subsidiary of the Connecticut Development Authority ("CDA") formed pursuant to Section 32-11a(l) of the Connecticut General Statutes, is authorized, upon resolution of the legislative body of a municipality, to issue and administer bonds, notes or other obligations which are payable solely or in part from and secured by: (A) a pledge of and lien upon any or all of the income, proceeds, revenues and property of a remediation project, including the proceeds of grants, loans, advances or contributions from the federal government, the state or any other source, including financial assistance furnished by the municipality or any other public body; (B) taxes or payments or grants in lieu of taxes allocated to and payable into a special fund of the CBRA, or (C) any combination of the foregoing; and

WHEREAS, a "remediation project" as defined in subsection (ii) of Section 32-23d of the Connecticut General Statutes, as amended by Public Act 01-179, means any project (1) involving the development or redevelopment of real property within this State that (A) has been subject to a spill, as defined in Section 22a-452c, (B) is an establishment, as defined in subdivision (3) of Section 22a-134, (C) is a facility, as defined in 42 USC 9601(9), or (D) is eligible to be treated as polluted real property for purposes of Section 22a-133m or contaminated real property for purposes of Section 22a-133aa or Section 22a-133bb, provided the development or redevelopment is undertaken pursuant to a remediation plan meeting all applicable standards and requirements of the Department of Environmental Protection, (2) that the CBRA determines will add or support significant new economic activity or employment in the municipality in which such project is located or will otherwise materially contribute to the economic base of the state or the municipality, and (3) for which assistance from the CBRA will be needed to attract necessary private investment; and

WHEREAS, the City of Danbury (the "Municipality"), acting through its legislative body, wishes to request that the CBRA issue and administer a note of the CBRA to the CDA pursuant to the Enabling Legislation (the "Note"), in an aggregate principal amount of up to \$500,000.00], with interest at a rate to be determined which principal amount shall include the reimbursement of the provider of or reimbursement party with respect to any guarantee or letter of credit used to secure the payment of the Note, to the extent of any payments made therefrom, including reimbursement to the CDA to the extent of any payments by the CDA of costs of issuance or administration with respect to the Note or any other expenses incurred by the CDA in providing financial assistance for the Project, for the purpose of assisting the acquisition, development or redevelopment of real property and the construction of improvements within the Municipality on a certain piece or parcel of land shown as "Disposition Parcel 9" on a certain map entitled "City of Danbury Engineering Department Danbury Redevelopment Agency Disposition Parcel 9 Patriot Drive and Pahquioque Avenue Danbury, Connecticut Scale: 1" = 20' July 16, 2003", which map is attached hereto as Exhibit A and made a part hereof, and which parcel is hereafter referred to as the "Property", for purposes of construction of an office building and other improvements on the Property pursuant to a Redevelopment Plan adopted by the Municipality pursuant to C.G.S. §8-127, et seq. (the "Project") as a "remediation project", as defined above, which Project is to be constructed by Patriot Plaza Associates, Inc. (the "Owner") pursuant to a certain draft agreement between the Municipality and the Owner (the "Redevelopment Agreement") which is now under negotiation and



RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

_____ A. D., 200__

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, the Project will involve the productive reuse of polluted or contaminated real property and will add or support significant new economic activity or employment in the Municipality and the Municipality has determined that participation in the CBRA's tax increment financing program for remediation projects on the terms and conditions set forth in the following resolutions is in the best interests of the Municipality; and

WHEREAS, to secure and provide for the payments of the Note as contemplated by the Enabling Legislation and in consideration of such financial assistance from the CBRA for the Project, the Municipality and all other taxing agencies in the Municipality (collectively, the "Taxing Agencies") are prepared to (i) pledge to the CBRA and grant to the CBRA a lien upon certain incremental municipal property tax revenues with respect to the Project for deposit to a special fund of the CBRA, for the purpose of payment of the Note, and (ii) authorize the CBRA to exercise with respect thereto the rights provided for in Section 12-195h of the Connecticut General Statutes of an assignee for consideration of any lien filed to secure the payment of such taxes, all pursuant to the Enabling Legislation and as more specifically provided in the following resolutions; and

WHEREAS, in order to consummate the above-described transactions, the Municipality needs to authorize the execution and delivery of the following documents: the Assignment, the form of which is attached to these resolutions; the Financial Assistance Agreement, the form of which is attached to these resolutions; and any other documents necessary or appropriate to consummate and give effect to the transactions contemplated by these resolutions; and

WHEREAS, the pledge to the CBRA of and grant to the CBRA of a lien upon such incremental property tax revenues shall be evidenced in the Assignment, which shall provide, among other things, that (A) in each fiscal year (i) that portion of the assessed taxes which would be produced by applying that fiscal year's tax rate of each of the Taxing Agencies to the total sum of the assessed value of the Project on the date of adoption of these resolutions shall be allocated to and when collected shall be paid into the funds of the respective Taxing Agencies in the same manner as taxes by or for said Taxing Agencies on all other real property are paid, and (ii) that portion of such assessed real property taxes in excess of the amount referred to in subdivision (i) above (the "Incremental Property Tax Revenues") shall be allocated to and when collected shall be paid into a special fund of the CBRA to be used in each fiscal year to pay the Note; (B) unless and until the total assessed valuation of the Project for real property tax purposes exceeds the total assessed value of the Project on the date of adoption of these resolutions, all of the real property taxes levied and collected upon the Project shall be paid into the funds of the respective Taxing Agencies; (C) such Assignment shall remain in effect and the Incremental Property Tax Revenues when collected shall continue to be paid over to such special fund of the CBRA through and including the date on which the CBRA has received Incremental Property Tax Revenues in an aggregate amount sufficient to pay and discharge in full the Note, and all moneys thereafter received from taxes upon the Project shall be paid into the funds of the respective Taxing Agencies in the same manner as taxes on all other real property are paid; and (D) the CBRA may exercise the rights provided for in Section 12-195h of the Connecticut General Statutes of an assignee for consideration of any lien filed to secure the payment of the Incremental Property Tax Revenues; and

WHEREAS, the Financial Assistance Agreement shall generally set forth the requirements for requisition and disbursement of the Grant (as defined below), conditions and limitations related to the use of the Grant, procedures for approval of Project plans and specifications, reporting requirements and covenants, insurance requirements, applicable legal requirements, events of default and default remedies, and other appropriate covenants, representations and warranties as may be reasonably required by the CBRA consistent with the Enabling Legislation, and in such Financial Assistance Agreement the Municipality will represent and warrant that the Assignment is in full force and effect and reaffirm its obligations under the Assignment; and



RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

_____ A. D., 200__

RESOLVED by the Common Council of the City of Danbury:

WHEREAS, it is intended that the following resolutions constitute all necessary and sufficient action by and on behalf of the Municipality to authorize participation in the CBRA's tax increment financing program for remediation projects pursuant to the Enabling Legislation, all on the terms and conditions set forth in the following resolutions;

THEREFORE, BE IT RESOLVED BY the Common Council of the City of Danbury:

Section 1. The participation by the Municipality in the CBRA's tax increment financing program for remediation projects is hereby authorized and approved with respect to the Project subject to the conditions hereinafter recited, and the Municipality hereby requests that the CBRA issue and administer the Note for the purpose of assisting the Project. The Mayor of the Municipality, "Authorized Officer", is authorized to prepare, execute and submit to the CBRA an application and other necessary information with respect to the Municipality and the Project (the "Application"), as may be required by the CBRA in connection with the tax increment financing program.

Section 2. The pledge to the CBRA of and grant to the CBRA of a lien upon the Incremental Property Tax Revenues with respect to the Project to secure and provide for the payment of the Note, the grant to the CBRA of the rights provided for in Section 12-195h of the General Statutes of an assignee for consideration of any lien filed to secure the payment of the Incremental Property Tax Revenues and the form of the Assignment are all hereby authorized and approved; and

Section 3. The execution and delivery by the Municipality of the Financial Assistance Agreement with the CBRA and the Owner relating to the use of the Brownfields grant (the "Grant"), which Grant will be made from the proceeds of the Note for purposes of assisting the Project, is hereby authorized and approved.

Section 4. The Mayor is authorized on behalf of the Municipality to execute and deliver the Application, the Assignment, the Financial Assistance Agreement and any and all other agreements, documents, instruments, certificates and notices, including making such representations or agreements and taking such further action as are necessary or appropriate to consummate and give effect to the transactions contemplated by these resolutions.

Section 5. For purposes of these resolutions, references to the CDA and the CBRA shall include any governmental or other entity succeeding generally to the rights and interests of the CDA or CBRA, respectively, by operation of law and any assignee of the rights and interests of the CDA or CBRA, respectively, under and pursuant to the Assignment or the Financial Assistance Agreement.

Section 6. The Municipality does hereby pledge and agree with the CBRA that the Municipality will not limit, alter or terminate the rights vested in the CBRA pursuant to these resolutions, the Assignment, the Financial Assistance Agreement or any other agreement necessary or appropriate to consummate and give effect to the transactions contemplated by these resolutions until the Note has been paid and discharged in full.

Section 7. Notwithstanding any other provision of these resolutions, the Municipality's participation in and obligations under the transactions contemplated by these resolutions shall be contingent upon the successful negotiation and execution by the Municipality, the Redevelopment Agency of the City of Danbury, and the Owner, of the Redevelopment Agreement and the transfer of title to the Property to the Owner pursuant to said Redevelopment Agreement.