

SCHEDULED MATTER

SUBJECT: PORTERVILLE HOTEL PROJECT - REPAYMENT OF COMMUNITY DEVELOPMENT BLOCK GRANT LOAN

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

BACKGROUND: On July 5, 1988, City Council approved a loan in the amount of \$470,000 in Community Development Block Grant (CDBG) funds for the purpose of rehabilitating the Porterville Hotel. As identified in the Promissory Note Secured by Deed of Trust, dated September 7, 1988, interest would accrue at a simple interest rate of three percent (3%) per year, payable annually. The terms of the loan included that the entire loan principal and accrued interest, *unless interest is waived by the City*, is due and payable thirty (30) years from the date of the Promissory Note evidencing the City Loan. In consultation with the regional director for the Department of Housing and Urban Development, it is up to the City to determine whether to forgive the loan or require payback. As such, it is fully within the purview of the City to forgive all or a portion of the debt. The current outstanding balance of the City's CDBG loan is approximately \$715,000 (principal and interest).

The main function of the CDBG loan was to rehabilitate and remodel the existing Porterville Hotel into a 70-unit, low- or very low-income, Single-Room Occupancy affordable housing project. In addition to the CDBG loan, the property owner received a loan for \$700,000 from the Department of Housing and Community Development (HCD).

Through the CDBG and HCD loans, the owner fulfilled the objective of the assistance to provide affordable housing. Unfortunately, due to a myriad of challenges with the project, the 100+ year old building continued to deteriorate and was deemed an unsafe building in 2006. The residents were relocated and the structure was secured to prevent unlawful entry.

On July 18, 2006, City Council authorized staff to begin negotiations with the property owner for the purchase of Porterville Hotel. The objective was to eliminate the blight on the downtown, through acquisition and demolition, preparation of a developable site and marketing the site for development of a mixed use commercial and office building. In 2008, the Porterville Redevelopment Agency approved the issuance and sale of Taxable Tax Allocation Bonds 2008 Series B in order to accomplish the acquisition and demolition of the Porterville Hotel.

Staff was actively pursuing negotiations with the property owner and agreements with HCD when Assembly Bill 1X 26 caused the dissolution of all California redevelopment agencies, and required successor agencies to wind down the affairs of the former agencies. The passage of AB 1X 26 and subsequent adoption of

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clean up language in AB 1484 impeded the Agency's progress on dealing with the blighted property.

On August 7, 2013, the Successor Agency to the Porterville Redevelopment Agency (Successor Agency) received a Finding of Completion from the California Department of Finance (DOF) which permitted the Agency to utilize proceeds derived from bonds issued prior to January 1, 2011, in a manner consistent with the original bond covenants per Health and Safety Code (HSC) Section 34191.4(c). With this approval, the Successor Agency was allowed to utilize remaining bond proceeds for the Porterville Hotel (Hotel) Project. The Hotel Project was deemed an eligible use of the excess bond proceeds held by the Successor Agency pursuant to the Indenture and Official Statement for the Porterville Redevelopment Agency (Porterville Redevelopment Project No. 1) Taxable Tax Allocation Bonds, 2008 Series B (Redevelopment Projects).

COMMENT: Staff of the City of Porterville and Successor Agency have been working since 2006 to complete the Hotel Project. The Hotel Project entails the acquisition of the Hotel property, clearance of title encumbrances (including several monetary liens), demolition of the existing building at the Hotel property, completion of remediation of contamination and preparation of a building pad for development. Once the Successor Agency has obtained a clear title to the Hotel property and the physical site has been cleared, the Hotel property will be sold by the Successor Agency and the net proceeds of the sale (after deducting transaction costs) will be distributed to the taxing entities.

While the catastrophic fire on December 26, 2013, complicated the acquisition, the goal remains to eliminate the blight and provide a clean site to market for development of the cornerstone of Downtown Porterville.

In order to complete the acquisition, the monetary liens need to be satisfied, as well as payment of the First Trust Deed. Staff was able to negotiate an agreement with HCD to satisfy the outstanding principal loan amount of \$700,000 and forgive the accrued interest and any other amounts due.

In keeping with the form of the HCD negotiation, staff is recommending that the City Council consider accepting payment of \$470,000, the principal amount of the loan, and forgive the accrued interest of \$245,000. The basis for this is that the developer created 70 units of low and very-low income housing for approximately 18 years, thereby meeting the purposes of the loan. The condition and design of the building and its location at the gateway to downtown are not conducive to reconstruction of a replacement affordable housing project, which would have allowed the City to retain the outstanding debt on the property as an encumbrance. This would not be possible for other types of development. Further, the building was not suitable for renovation as a residential or commercial development as evidenced by the report commissioned by the City titled, "Development Alternatives and Budget Analysis for Porterville Hotel Building NE Corner Main Street and Olive Avenue, Porterville, CA by Taylor Teter Partnership, December 4, 2007."

Based on the current budget estimates and negotiated contracts pertaining to this project, bond funds are available to pay off the principal balance of the affordable housing loan. It is important to note that any expenditure of bond proceeds on the Hotel Project, or for any other purpose, must be approved by the Oversight Board to the Successor Agency and by the DOF. The Successor Agency approved the expenditure of bond funds to pay the principal balance with forgiveness of accrued interest as outlined in the Purchase and Sale Agreement in the City Council Closed Session Meeting on March 18, 2014, and the Oversight Board approved the same on March 26, 2014. Approval of this action by the City Council will facilitate review and, hopefully, approval by the DOF. If approved by the DOF, staff will bring back to the City Council, through the CDBG process, to identify where the funds would be allocated.

**RECOMMENDATION:** That the City Council forgive payment of the accrued interest, accepting the principal amount of \$470,000 and to release and reconvey the deed of trust and regulatory agreement recorded against the Porterville Hotel property.

**ATTACHMENT:**

1. Promissory Note Secured by Deed of Trust, dated September 7, 1988.
2. Draft Resolution.

PROMISSORY NOTE SECURED BY DEED OF TRUST

\$470,000.00

September 7, 1988

FOR VALUE RECEIVED, the undersigned, Porterville Hotel Investors, a California Limited Partnership, Daniels C. Logue, General Partner with its principal office at 4212 North Freeway Boulevard, Suite 4, Sacramento, California 95834 (the Borrower), hereby promises to pay to the order of the City of Porterville (hereinafter the City), a public body, corporate and politic, with its principal office at City Hall, Porterville, California 93257, the principal amount equal to FOUR HUNDRED SEVENTY THOUSAND DOLLARS (\$470,000.00) or so much thereof as may be advanced by the City to the Borrower pursuant to a "Regulatory Agreement" dated September 7, 1988, and a "Loan Agreement" dated September 7, 1988, between the Borrower and the City. The obligation of Borrower in respect to all such advances is subject to the terms of (a) the Regulatory Agreement, (b) this Note, (c) the "Deed of Trust" of this same date securing this Note and (d) the Loan Agreement.

1. This Note evidences the obligation of the Borrower to the City for the repayment of funds lent to the Borrower by the City for the purpose of acquisition by Borrower of the real property (the "Property") described in the Trust Deed, resident relocation costs, and cost of furnishings for the operation thereon of a residential hotel "the Project" pursuant to the Regulatory Agreement and the Loan Agreement.

2. The Borrower agrees to pay the indebtedness hereunder as follows: Thirty (30) years from the date of this Note, the Borrower shall pay in full the total principal amount advanced to the Borrower by the City as evidenced by this Note and the Deed of Trust and all interest accrued thereon. Interest shall accrue at a simple interest rate of three percent (3%) per year, payable annually. All interest payments shall be due and payable on the first day of July each year. Annual interest payments may be deferred annually by City at the sole discretion of the City, subject to the results of the annual performance review conducted by the State of California Department of Housing and Community Development and the City.

3. The amount due and payable under this Note and City Trust Deed is payable at the principal office of the City set forth above or at such other place or places that the City may designate to the Borrower in writing from time to time, in any coin or currency of the United States of America which on the respective date of payment thereof shall be legal tender for the payment of public and private debts.

4. All covenants and conditions and agreements contained in the Deed of Trust, the Loan Agreement and the Regulatory Agreement are hereby made a part of this Note. If any installment under this Note is not paid when due or any default occurs in the agreements contained in this Note, the City shall be entitled to exercise rights or remedies hereunder and the entire principal amount outstanding and any accrued interest thereon shall become due and payable at the option of the City and thereafter until paid bear interest at the rate of ten percent (10%) per annum. The date specified shall not be less than thirty (30) days from the date such notice is

**ATTACHMENT  
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shall not be less than thirty (30) days from the date such notice is mailed. The City may exercise its option to accelerate during any default by Borrower regardless of any prior forbearance. If suit is brought to collect this Note, the City shall be entitled to collect all reasonable costs and expenses of suit, including, but not limited to, reasonable attorney's fees. The following shall also constitute default under this Note: occurrence of (a) the Borrower's becoming insolvent or bankrupt or being unable or admitting in writing its inability to pay its debts as they mature or making a general assignment with creditors; or (b) proceedings for appointment of a receiver, trustee, or liquidator of the assets of the Borrower or a substantial part thereof, being authorized or instituted by or against the Borrower; or (c) proceedings under any bankruptcy, reorganization, readjustment or debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against the Borrower.

5. No delay or failure of City in the exercise of any right or remedy hereunder or under any other agreement which secures or is related hereto shall affect any right or remedy, and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof, and no action taken or omitted by City shall be deemed a waiver of any such right or remedy.

6. The Borrower hereby agrees to pay all costs and expenses including reasonable attorney's fees, which may be incurred by the City hereof in the enforcement of this Note, the Deed of Trust, or any term or provision thereof. Each maker, endorser, surety, and guarantor of this Note hereby jointly and severally waives demand, protest, presentment, notice of nonpayment, notice of protest, notice of dishonor, and diligence in bringing suit against any party and does hereby consent that time of payment of all or any part of said amount may be extended from time to time by the City without notice. The obligations under this Note shall be without recourse against any Partners, General or Limited, of the Borrower.

7. Any notice to the Borrower provided for in this Note shall be given by mailing such notice by certified mail addressed to the Borrower at the address stated below, or to such other address as the Borrower may designate by written notice to the City. Any notice to the City shall be given by mailing such notice by certified mail, return receipt requested, to the City at the address stated above, or such other address as may have been designated by written notice to Borrower.

8. This Note shall be binding upon the Borrower and its successors and assigns. The Borrower shall not make any sale, assignments, or conveyance, or transfer in any other form, of the project referred to above or any part thereof or of any of its interest therein other than in accordance with the terms of the Regulatory Agreement and with the approval of the City.

9. The Borrower shall be entitled to pay the indebtedness evidenced by this Note, or any part thereof, prior to or in advance of the time for payment, without the prior written consent of the City.

10. This Note shall be construed in accordance with and be governed by the laws of the State of California.

11. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provision hereof shall not in any way be affected or impaired thereby unless, in the sole discretion of the City, the invalidity, illegality, or unenforceability of the provision negates the program purpose and/or threatens the security of the City.

12. The Borrower hereby certifies to the City that this is the Promissory Note described in and secured by the Deed of Trust covering the real and personal property therein described.

Executed at Porterville, California.

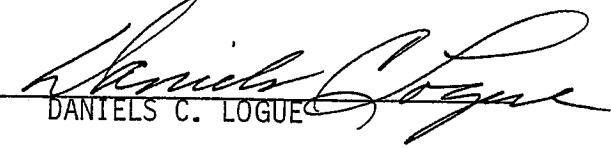
Borrower's Address

4212 North Freeway Blvd., Suite 14  
Sacramento, California 95834

Borrower:

Porterville Hotel Investors, A  
California Limited Partnership,  
Daniels C. Logue, General Partner

By:

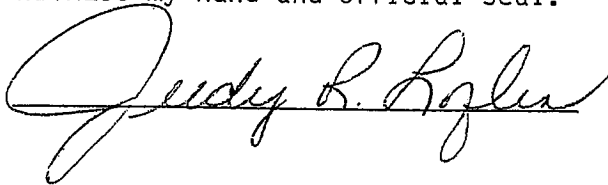
  
DANIELS C. LOGUE

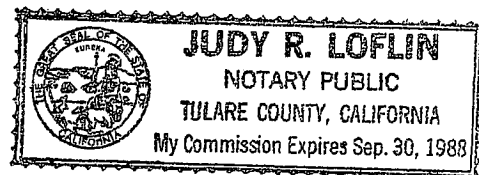
192-18-5541  
Social Security Number

STATE OF CALIFORNIA )  
                                  :ss  
COUNTY OF TULARE )

On September 7, 1988, before me, the undersigned, a Notary Public in and for said State, personally appeared DANIELS C. LOGUE, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as one of the partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.





RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL ACCEPTING THE CLEARANCE OF THE MONETARY LIEN OF THE COMMUNITY DEVELOPMENT BLOCK GRANT LOAN TO THE CITY OF PORTERVILLE FOR ASSESSOR PARCEL NUMBER 261-122-007, TRUSTEES PORTERVILLE HOTEL INVESTORS, A CALIFORNIA LIMITED PARTNERSHIP, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.4(c) AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, the former Porterville Redevelopment Agency (“Agency”) was established as a redevelopment agency that was previously organized and existing under the California Community Redevelopment Law, Health and Safety Code Section 33000, et seq., and previously authorized to transact business and exercise powers of a redevelopment agency pursuant to action of the City Council of the City of Porterville (“City”); and

WHEREAS, Assembly Bill 1X 26, chaptered and effective on June 28, 2011 (“AB1X 26”), added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and winding down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 (“AB 1484”), chaptered and effective on June 27, 2012 (together, the “Dissolution Act”); and

WHEREAS, as of February 1, 2012 the Agency was dissolved pursuant to the Dissolution Act and the City Council serves as the governing board of the Successor Agency to the Porterville Redevelopment Agency (“Successor Agency”); and

WHEREAS, the Successor Agency administers the enforceable obligations of the former Agency and otherwise unwinds the Agency’s affairs, all subject to the review and approval by a seven-member oversight board (“Oversight Board”); and

WHEREAS, the California Department of Finance (“DOF”) issued the Finding of Completion to the Successor Agency on August 7, 2013, which permitted the Agency to utilize proceeds derived from bonds issued prior to January 1, 2011, in a manner consistent with the original bond covenants per Health and Safety Code (“HSC”) Section 34191.4(c); and

WHEREAS, the Porterville Hotel Project is an eligible use of the excess bond proceeds held by the Successor Agency pursuant to the Indenture and Official Statement for the Porterville Redevelopment Agency (Porterville Redevelopment Project No. 1) Taxable Tax Allocation Bonds, 2008 Series B (Redevelopment Projects); and

WHEREAS, The Porterville Hotel Project entails the acquisition of the Hotel property, clearance of title encumbrances (including several monetary liens), demolition of the building and completion of remediation of contamination, as needed. Once the Successor Agency obtains clear title to the Hotel property and the physical site has been cleared, the Hotel property will be sold by the Successor Agency and the net proceeds of the sale (after deducting transaction costs) will be used to defease the bond debt pursuant to HSC Section 34191.4(c)(2)(B).

WHEREAS, on March 18, 2014, the Successor Agency authorized staff to complete negotiations with Porterville Hotel Investors for acquisition of Assessor Parcel Number 261-122-007 and open an escrow account to begin the Porterville Hotel Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTERVILLE AS FOLLOWS:

Section 1. The foregoing recitals are incorporated into this Resolution by reference, and constitute a substantive part of this Resolution.

Section 2. The City Council hereby accepts the clearance of the monetary lien of the Community Development Block Grant loan to the City of Porterville for the original loan amount of \$470,000, and forgiving payment of the accrued interest.

Section 3. In addition to the authorization of Section 2 above, the City Manager is hereby authorized, on behalf of the City, to sign all other documents necessary or appropriate to carry out and implement the Porterville Hotel Project.

Section 4. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 1<sup>st</sup> day of April, 2014.

By: \_\_\_\_\_  
Cameron J. Hamilton, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk