

July 12, 2010

**ITEM#:** 7.D.

**RE:** CONSIDERATION AND ADOPTION OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF SALT LAKE CITY APPROVING THE TERMS OF A REIMBURSEMENT AGREEMENT WITH THE DEVELOPER SELECTED BY SALT LAKE COUNTY TO CONSTRUCT A SOLAR PANEL SYSTEM ON THE ROOF OF THE SALT PALACE CONVENTION CENTER.

**PROJECT AREA:** Central Business District

**PREPARED BY:** D.J. Baxter

**EXECUTIVE SUMMARY:** Salt Lake County is undertaking a project to install approximately 2.5 megawatts of solar power on the roof of the Salt Palace. The financial structure the County is using will place the panels in private ownership for the first seven years, making them subject to personal property taxes. Salt Lake County is asking the RDA of Salt Lake City for a partial rebate of the tax increment collected on the panels.

**ALTERNATIVES:**

1. Adopt the Resolution
2. Do not adopt the Resolution
3. Adopt the Resolution with revisions

**ANALYSIS AND ISSUES:** Salt Lake County representatives initially contacted staff in the summer of 2010 about the County's plans to undertake a substantial installation of solar panels on the roof of the Salt Palace. The installation, whose planned capacity has increased from approximately 1.0 megawatt of power to approximately 2.6 megawatts, will use a variety of financing tools and incentives, including a Power Purchase Agreement (PPA), under which the County will engage a private contractor to supply, install, and own the solar equipment for at least seven years. As privately-owned personal property, the equipment will be subject to property taxes.

County representatives estimate the cost of the panels at \$10,200,000. The County estimates the personal property taxes paid will be approximately \$125,664/year in the first year, declining gradually to about \$18,564/year in the ninth year (declining because of depreciation).

Mayor Corroon's letter requests that the RDA consider refunding some or all of the incremental personal property taxes generated by the project, which the County's contractor would use to install more solar panels.

This is roughly analogous to a tax increment reimbursement request we might receive from a private developer. The main differences here are that the taxes being collected are on personal property rather than real property, and that rooftop solar panels do not fall within one of the RDA's established Tax Increment Reimbursement programs, under which public space, historic preservation, and structured parking are the only eligible uses.

For requests that do fall within current RDA programs, our practice is to rebate up to half of the tax increment we actually receive from the project. Under the extension of the Central Business District, after SARR and debt service obligations are met, the RDA keeps only 40% of the increment generated, while the other 60% passes to the taxing entities. Therefore, our past practice would suggest that if the County's request were approved by the Board, the reimbursement amount would be half of the RDA's 40%. Using the County's estimates for the first year, the RDA would collect 40% of the \$125,000 generated, or \$50,000. The County would be eligible for a rebate of half that amount, approximately \$25,000. To access other portions of the annual increment, the County would need to negotiate reimbursements directly with the taxing entities.

If the Board were to approve a reimbursement pursuant to the County's request, payments would not begin until April 2013, at the earliest, as part of the 2012/2013 budget, using taxes collected in the 2012 tax year.

**ATTACHMENTS:**

- 1) Revised Request Letter from Salt Lake County Mayor Peter Corroon
- 2) Resolution and Term Sheet

RESOLUTION OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF SALT LAKE CITY APPROVING THE TERMS OF A REIMBURSEMENT AGREEMENT WITH THE DEVELOPER SELECTED BY SALT LAKE COUNTY TO CONSTRUCT A SOLAR PANEL SYSTEM ON THE ROOF OF THE SALT PALACE CONVENTION CENTER

WHEREAS, the Redevelopment Agency of Salt Lake City (the “Agency”) was created to transact the business and exercise the powers provided for in the Utah law now known as the Community Development and Renewal Agencies Act;

WHEREAS, following a public hearing, the Agency adopted a resolution entitled, “Resolution of the Redevelopment Agency of Salt Lake City Approving and Adopting the Project Area Redevelopment Plan entitled, “CBD Neighborhood Development Plan,” dated February 11, 1971;”

WHEREAS, Salt Lake County (the “County”) is pursuing an initiative to install photovoltaic systems on the roofs of several County-owned facilities, including the Salt Palace Convention Center (the “Convention Center”);

WHEREAS, a qualified provider selected by the County (the “Developer”) and the County are intending to enter into a Power Purchase Agreement pursuant to which (1) the Developer will agree to construct on the roof of the Convention Center a photovoltaic system with a capacity of approximately 2.6 MW (the “Project”), and (2) the Developer will agree to sell to the County, and the County will agree to purchase from the Developer, the electricity generated by the Project;

WHEREAS, the electricity generated by the Project will be used by the Convention Center, and therefore the Project will remove a substantial load from Rocky Mountain Power Co.’s distribution system, which will eliminate or delay the need for an additional substation and/or new transmission capacity in the downtown area of Salt Lake City;

WHEREAS, the electricity generated by the Project will replace electricity generated by non-renewable energy sources, including sources of carbon emissions in Utah;

WHEREAS, the County is arranging for a number of sources of favorable financing for the Project, and desires to use a portion of the tax increment created by the Project to which the Agency will be entitled to increase the amount of available financing, so that the Project’s size can be larger than would otherwise be the case; and

WHEREAS, the Agency is desirous of supporting the efforts of the County, one of its partners in a number of tax increment-supported projects, in this component of the County’s solar power initiative, and the Agency has determined that it is in the best interest of the citizens

of Salt Lake City to use tax increment in this manner, notwithstanding such use is not within any established program of the Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF SALT LAKE CITY, that the Board does hereby authorize the Chief Administrative Officer and the Executive Director to execute a Reimbursement Agreement between the Redevelopment Agency of Salt Lake City and the Developer of the Project selected by the County with the provisions described in the attached Term Sheet and such other provisions as may be recommended by counsel to the Agency and approved by such officers.

Passed by the Board of Directors of the Redevelopment Agency of Salt Lake City, this \_\_ day of July, 2011.

\_\_\_\_\_  
Luke Garrott, Chair,  
RDA Board of Directors

ATTEST:

\_\_\_\_\_  
D.J. Baxter, Executive Director

Transmitted to the Chief Administrative Officer on July \_\_\_\_, 2011. The Chief Administrative Officer

\_\_\_\_\_ does not request reconsideration  
\_\_\_\_\_ requests reconsideration at the next regular Agency meeting.

\_\_\_\_\_  
Ralph Becker, Chief Administrative Officer

ATTEST:

\_\_\_\_\_  
D.J. Baxter, Executive Director

Approved as to form:

Jones, Waldo, Holbrook & McDonough, P.C.

By: \_\_\_\_\_  
Tom Berggren

**Term Sheet for  
Salt Palace Convention Center Solar Panel Installation  
Tax Increment Reimbursement**

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**Description:** Salt Lake County (“County”) intends to enter into a Power Purchase Agreement (“PPA”) with a private entity (“Developer”) pursuant to which Developer will agree to (1) purchase and install a solar panel system (as more particularly described below, the “Project”) and (2) sell to the County the electricity generated by the Project at the price to be negotiated in the PPA. Agency is willing to commit to assist with the Project by reimbursing Developer with a portion of the tax increment generated from the Project, subject to the terms and conditions of a Reimbursement Agreement to be executed by Agency and Developer (“Reimbursement Agreement”). The following provisions shall be included in the Reimbursement Agreement:

**Agency Participation:** To support the construction of the Project, Agency will agree to reimburse Developer for a portion of the cost of the Project from property tax increment reimbursement (“TIF Reimbursement”) in an amount not to exceed the lesser of:

- (1) \$143,371.20 or
- (2) 50% of the tax increment generated from the Project that is actually received by Agency (i.e. 50% of 40% of the total increment, i.e. 20% of the total tax increment attributable to the Project collected and distributed by Salt Lake County).

Agency’s obligation to pay TIF Reimbursement shall expire with the payment made with respect to the tax year 2020, or upon payment of \$143,371.20 in total, whichever occurs first.

At such time as the County has selected Developer and approved the budget for the Project, the County shall deliver to Agency a request in writing that Agency enter into the Reimbursement Agreement with the Developer. The request shall include a certification from the County that the amount of the TIF Reimbursement committed by Agency has resulted in Developer’s agreement to construct the Project with a commensurately larger capacity than that which would have been constructed with only the other sources of financing committed to the construction of the Project, together with reasonable financial information supporting such certification.

**Project Specifications:** The Project will consist of photovoltaic systems with a capacity to generate approximately 2.6 megawatts of electricity located on the on the roof of the Salt Palace Convention Center.

**Project Schedule:** The County anticipates that the Project will be completed by Developer by December 31, 2011. If the Project is not completed by June 30, 2012, the Reimbursement Agreement will terminate.

**Commitment:** The commitment contained in this Term Sheet, if approved by Agency's Board of Directors, shall expire on September 30, 2011. Developer and Agency must complete the negotiation of and execute the Reimbursement Agreement and any other required agreements prior to the expiration of such commitment.

**Conditions:** Agency shall be under no obligation to pay Developer the TIF Reimbursement until the following conditions have been met:

1. Agency's Board of Directors shall have approved the Project's (a) final design, (b) capacity, and (c) budget, including details as to all sources and uses of funds.
2. Agency will not be obligated to make the first payment of the TIF Reimbursement until all of the following conditions have been satisfied:
  - (a) Developer has provided evidence that Developer, in connection with the construction of the Project, has expended at least the amount specified in the budget,
  - (b) the completed Project has been placed on the assessment rolls,
  - (c) a Certificate of Completion for the Project has been issued by the Salt Lake City Division of Building Services & Zoning Enforcement,
  - (d) Agency has issued a certificate of completion indicating that the Project has been completed in accordance with the Reimbursement Agreement, and
  - (e) Developer has complied with all other applicable conditions in the Reimbursement Agreement.
3. Agency will not be obligated to make any payment of the TIF Reimbursement until all of the following conditions have been satisfied:

- (a) Developer must provide Agency with an estimate of the amount of the TIF Reimbursement due with respect to each tax year no later than October 15 of the prior tax year (i.e. for a TIF Reimbursement due March 31, 2013 for tax year 2012, Developer must provide an estimate by October 15, 2011), and Agency shall use this estimate in budgeting for the TIF Reimbursement,
- (b) Developer must prove punctual payment of property taxes every year by December 31<sup>st</sup> until the reimbursement period expires, and
- (c) Developer has provided evidence of insurance covering public liability and such other insurance in such amounts and with such coverages as deemed necessary and appropriate by Agency.

**Miscellaneous:**

Agency, by making this commitment or taking any action hereunder, will not be deemed to be a partner or a joint venturer with Developer, and Developer will indemnify, defend and hold harmless Agency from any and all damages arising out of any claim that this commitment of TIF Reimbursement constitutes a partnership or joint venture between Agency and Developer.

Agency makes no representation or warranty with respect to the compliance of the Project with applicable zoning and use regulations, the ability of Developer to obtain any necessary governmental approvals and permits and that Agency's approval of this term sheet or Reimbursement Agreement does not constitute the agreement of Agency to assist Developer in obtaining any of the foregoing. Developer will be liable for a material misstatement in any information provided by Developer to Agency in connection with the TIF Reimbursement and in the representations and warranties Developer makes in the Reimbursement Agreement.

Developer shall acknowledge that increases in taxes due to a change in the tax rates, or to certain items described in the Limited Purpose Local Government Entities—Community Development and Renewal Agencies Act, cannot be paid by Agency because Agency does not receive these increases as a part of tax increment. Further, tax increment may be adjusted, diminished or discontinued in the future by actions of governmental agencies and bodies, including, without limitation, the Salt Lake County Assessor, the Salt Lake County Auditor (which might include, among other things, a reassessment of

the Project after Agency files its request for tax increment), taxing entities, the Utah Tax Commission, and the Utah legislature. Consequently, Agency makes no representation (and Developer assumes all risk) with regard to the amount of tax increment (if any) that will be available to pay TIF Reimbursements. Agency has approved a tax increment collection budget which entitles Agency to retain only 40% of tax increment generated by the Project Area.

Agency may issue bonds and other indebtedness that may be secured by the Project tax increment and which are payable senior to and ahead of the obligations of Agency under the Reimbursement Agreement; provided that, at the time the bonds are issued or other indebtedness is incurred (i) no event of default by Agency has occurred and is continuing under the Reimbursement Agreement and (ii) estimated annual tax increment revenue available for the payment on existing and proposed Project Area bonds and the existing Reimbursement Agreement is available.

Developer may grant a security interest in its right to receive the TIF Reimbursement to a single senior lender, but Developer shall not otherwise assign its right to receive the TIF Reimbursement to another party except in connection with a permitted sale of the Project.



June 7, 2011

Mr. D.J. Baxter, Executive Director  
Redevelopment Agency of Salt Lake City  
451 South State Street, Room 418  
Salt Lake City, Utah 84114

**PETER M. CORROON**  
Salt Lake County Mayor

2001 South State Street  
Suite N-2100  
Salt Lake City, UT 84190-1020

801 / 468-2500  
801 / 468-3535 fax

Dear Mr. Baxter:

Salt Lake County is pleased to be moving forward with its unprecedented 2.6 MW solar PV installation project on the Salt Palace Convention Center. This will be the first solar project in the State to take advantage of the recent (March 2010) legislation which makes it possible for a Power Purchase Agreement (PPA) financing structure to be used. In a PPA model the County will select a private solar contractor who will finance, design, build, own, operate, and maintain the solar array. The County will lease its roof to the PPA provider and purchase our power from them at a pre-determined rate.

In addition to utilizing a PPA, this solar project will employ public and private capital, EECBG grants, and public/private subsidized bonds that are able to work together efficiently because of the recent stimulus bill. The project also makes use of recent changes to Federal tax rules, and the recent re-awakening of private capital markets that make a significant public-private partnership possible. We believe this will be an extremely innovative project, and will mark the first time that all of these incentives (EECBG grants, Qualified Energy Conservation Bonds, New Markets tax credits, investment tax credits, public and private funds) have been packaged into one project.

As you may recall the County approached the Redevelopment Agency (RDA) of Salt Lake City last year requesting they consider rebating all or part of the personal property tax paid by the private solar developer to this project. These funds could then be put back into the project, resulting in increased solar panels on the roof of the Salt Palace. This request was simply an attempt by the County to provide the private solar developer an added incentive which would essentially make the capital they contribute to the project and the funds the County is providing equal. We were pleased when the RDA Board accepted our request and approved a 50% waiver of the tax increment generated from the Project that is actually received by the Agency (i.e. 50% of 40% of the total increment, i.e. 20% of the total tax increment attributable to the Project that is collected and distributed by Salt Lake County).

Since the RDA Board made this ruling last year there have been some changes to the project. Specifically, the size of the solar array has increased and the County has welcomed new project partners. As a result, we are once again respectfully requesting the RDA Board approve this same request with this updated information.

The County is so pleased to be moving forward on this important project for Salt Lake City. I sincerely appreciate your consideration of this request once again and we look forward to meeting with you and the Salt Lake City RDA Board to discuss this project further.

Sincerely,

Nichole Dunn  
Deputy Mayor, Salt Lake County