

Attachment A

Resolution No. 23-067

RESOLUTION NO. 23-067

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE APPROVING AN INTERFUND LOAN REPAYMENT AGREEMENT AND PROMISSORY NOTE BY AND BETWEEN THE CITY OF VICTORVILLE AND CITY OF VICTORVILLE AS HOUSING ASSETS SUCCESSOR AGENCY (“CHAS”) IN THE AMOUNT OF \$268,742.83 PLUS ACCRUED INTEREST FOR GROUNDWATER AND SOIL REMEDIATION EXPENSES FOR FISCAL YEARS 2021, 2022 AND 2023 RELATED TO THE FORMER NUWAY DRY CLEANERS

WHEREAS, the City of Victorville duly created and activated the Victorville Redevelopment Agency (the “RDA”) pursuant to the provisions of the California Community Redevelopment Law, Health and Safety Code sections 33000, et. Seq. (the “Community Redevelopment Law”) by a duly adopted Ordinance of the City of Victorville, California (the “City”); and

WHEREAS, in 2007, the RDA began a land assembly project for properties in the Old Town Redevelopment Project Area, to alleviate physical and economic blight and ultimately introduce new commercial and residential buildings where dilapidated structures existed; and

WHEREAS, the City acquired the former NuWay Dry cleaners with RDA funding (the “Site”) located at 8th and C Street through a property tax lien sale conducted by the County of San Bernardino for the purposes of redevelopment in accordance with the Old Town/Mid Town Redevelopment Project Area; and

WHEREAS, the Site was determined to be contaminated given its prior use as a dry cleaning facility; and

WHEREAS, the Victorville Redevelopment Agency is now dissolved, and the housing assets of the former Victorville Redevelopment Agency have been assigned to the City of Victorville as Housing Assets Successor Agency, pursuant to Resolution. No. R-HF-16-001; and

WHEREAS, on October 16, 2018, the Victorville City Council adopted Resolution No. 18-086 accepting the award of a Site Cleanup Subaccount Program (“SCAP”) grant from the State Water Resources Control Board to provide reimbursement of costs associated with soil and groundwater remediation at the Site; and

WHEREAS, the Lahontan Regional Water Quality Resources Control Board (“Lahontan”) requested additional groundwater remediation assessment for neighboring properties in proximity to the Site which was not considered SCAP eligible as the work was not identified at the time of the grant award; and

WHEREAS, the ineligible costs would need to be funded by CHAS but exceeded CHAS

available funding amounts; and

WHEREAS, the City of Victorville, through its General Fund, created a fund for the purpose of addressing the budget shortfalls in the CHAS Fund during fiscal years 2021, 2022, and 2023 to pay for the additional work as requested by Lahontan and related expenses totaled \$268,742.83; and

WHEREAS, CHAS now has the funds to repay the City in the amount \$268,742.83, plus interest, out of existing fund balance during fiscal year 2023-2024.

NOW THEREFORE, THE CITY OF VICTORVILLE DOES HEREBY FIND, RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

1. The above recitals are true and correct and are a substantive part of this Resolution and incorporated by this reference herein.
2. CHAS hereby agrees to repay the City of Victorville General Fund in the amount of \$268,742.83, plus accrued interest, as detailed in the Loan Repayment Agreement and Promissory Note attached hereto as Exhibit A.
3. The officers of the City of Victorville are hereby authorized, jointly and severally, to execute and deliver any and all necessary documents and instruments and to perform all things which they may deem necessary or proper to effectuate the purposes of this Resolution and the Loan Repayment Agreement and Promissory Note.

**Exhibit A to
Resolution No. 23-067**

Loan Repayment Agreement and Promissory Note

LOAN REPAYMENT AGREEMENT AND PROMISSORY NOTE

Principal Amount: \$268,742.83

Date: September 19, 2023

FOR VALUE RECEIVED, the CITY OF VICTORVILLE AS HOUSING ASSETS SUCCESSOR AGENCY (“CHAS”), referred to as “Payor”, promises to repay to the CITY OF VICTORVILLE GENERAL FUND (“Payee”), an amount not to exceed \$268,742.83, together with interest and any additional amounts due hereunder, representing the amount Payee advanced to Payor for costs based on the terms and conditions set forth below.

RECITALS

WHEREAS, the Payee duly created and activated the Victorville Redevelopment Agency (the “RDA”) pursuant to the provisions of the California Community Redevelopment Law, Health, and Safety Code sections 33000, et. Seq. (the “Community Redevelopment Law”) by a duly adopted Ordinance of the City of Victorville, California (the “City”); and

WHEREAS, in 2007, the RDA began a land assembly project for properties in the Old Town Redevelopment Project Area, to alleviate physical and economic blight and ultimately introduce new commercial and residential buildings where dilapidated structures existed; and

WHEREAS, the City acquired the former NuWay Dry cleaners with RDA funding (the “Site”) located at 8th and C Street through a property tax lien sale conducted by the County of San Bernardino for the purposes of redevelopment in accordance with the Old Town/Mid Town Redevelopment Project Area; and

WHEREAS, the Site was determined to be contaminated given its prior use as a dry-cleaning facility; and

WHEREAS, the Victorville Redevelopment Agency is now dissolved, and the housing assets of the former Victorville Redevelopment Agency have been assigned to the Payor, pursuant to Resolution. No. R-HF-16-001; and

WHEREAS, on October 16, 2018, the Victorville City Council adopted Resolution No. 18-086 accepting the award of a Site Cleanup Subaccount Program (“SCAP”) grant from the State Water Resources Control Board to provide reimbursement of costs associated with soil and groundwater remediation at the Site; and

WHEREAS, the Lahontan Regional Water Quality Resources Control Board (“Lahontan”) requested additional groundwater remediation assessment for neighboring properties in proximity to the Site which was not considered SCAP eligible as the work was not identified at the time of the grant award; and

WHEREAS, the ineligible costs would need to be funded by the Payor but exceeded the Payor’s available funding amounts; and

WHEREAS, the Payee, through its General Fund, created a fund for the purpose of addressing the budget shortfalls in the Payor's Fund during fiscal years 2021, 2022, and 2023 to pay for the additional work as requested by Lahontan and related expenses totaled \$268,742.83; and

WHEREAS, Payor now has the funds to repay the Payee in the amount not to exceed \$268,742.83 out of existing fund balance during fiscal year 2023-2024.

TERMS AND CONDITIONS

1. The recitals set forth in this Note are true and correct and incorporated herein by this reference.
2. The Note shall have a term of 30-Days from the date set forth above (the "Term").
3. Payor agrees to repay Payee in full by the end of the Term of the Note, and in accordance with the Payment Schedule set forth in Section 4, below, the outstanding principal balance due hereunder, together with interest accrued thereon at the annualized (averaged) Local Agency Investment Fund ("LAIF") rate.
4. The Payment Schedule shall be as follows:

Full payment of \$268,742.83 shall be made on October 19, 2023. Failure to pay any sum provided for in this Note when due or a material breach of this Note shall entitle Payee to declare all sums due hereunder immediately due and payable and to pursue all remedies available under this Note.
5. All payments due under this Note shall be made in lawful money of the United States in the name of Payee at the principal office of Payee at 14343 Civic Drive, Victorville, CA 92392, or at such other place as may be from time to time designated by payee in writing.
6. Payor reserves the right to prepay at any time all or any part of the principal amount of this Note without the payment of penalties or premiums. All payments on this Note shall be applied first to interest accrued, and any remaining balance shall be applied to principal and to late charges (if any).
7. In the event Payor shall fail to pay the payments when due, the unpaid principal amount of this Note, together with late charges, shall become due and payable without further notice to the Payor.
8. In no event shall the total late charge payable hereunder exceed the maximum amount of interest permitted under the usury laws of the State of California.
9. Any changes, modifications or addenda to this Note must be in writing.

10. Demand, protest and notice of demand and protest are hereby waived and the payor hereby waives, to the extent authorized by law, any and all homestead and other exemption rights which otherwise would apply to the debt evidenced by this Note.
11. If any portion of this Note is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Note and the remaining parts shall remain in full force and effect as though such invalid or unenforceable provision had not been a part of this Note.
12. Time is of the essence in the performance of every term and conditions of this Note.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Note has been executed by the undersigned Payor, as of the date set forth below.

**CITY OF VICTORVILLE AS
HOUSING ASSETS SUCCESSOR AGENCY**

By : _____
Debra Jones, Mayor

Date: _____

ATTEST:

By _____
Jennifer Thompson,
City Clerk

APPROVED AS TO FORM:

By _____
Andre de Bortnowsky
City Attorney