



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Allison Rowland  
Budget & Policy Analyst

**DATE:** October 17, 2023

**RE: INFORMATIONAL: EMERGENCY LOAN PROGRAM REPAYMENT, LEGISLATIVE  
INTENT FOLLOW UP**

Item Schedule:

Briefing: October 17, 2023

Public Hearing: n/a

Potential Action: n/a

## ISSUE AT-A-GLANCE

Following up on a request from the Council, the Department of Economic Development (DED) has proposed options for repayment of loans granted in 2020 through the Emergency Loan Program (ELP). This program extended no-interest loans to local small businesses and nonprofits for short-term relief during the early days of the COVID-19 pandemic, before Federal aid became available. In a follow-up briefing in September 2022, in recognition of ongoing economic disruptions, the Council approved a deferment of repayment for these loans to December 31, 2024, on an “opt-in” basis. As of August 10, 2023, five of the original 52 ELP borrowers had paid off their loans in full, and another seven have begun making monthly payments. The remaining 40 borrowers owe monthly amounts from \$250 to \$333 over the next 60 months.

Council Members recognized in September 2022 that there is little incentive for borrowers to repay a 0% interest loan in the current environment of relatively high interest rates for commercial borrowing. They indicated that they would support policies that incentivize prompt repayment, and that they would consider writing off only those loans whose borrowers have no other alternative to doing so. These positions were formalized in three Legislative Intents that also changed the process the Department had used previously to defer loans for this program (see section A below). This transmittal is a response to those legislative intents.

In its most recent transmittal, the Department suggests **options** to the Council, including “partial loan forgiveness” or “full loan forgiveness” for borrowers who would experience hardship from repayment (see section D below). Council staff has raised that the Council’s long-standing policy is to prohibit retroactive loan forgiveness in City programs, which essentially transforms a loan into a grant. ***In the Policy Questions section at the end of this report, there are several questions that aim to help the Council consider the range and limits of this policy on grants and loans, in addition to specific questions about the Emergency Loan Program. Staff note: the Department is not recommending any particular option, and is bringing options solely for Council consideration in advance of the December 2024 deadline.***



**Goal of the briefing:** Review the Department of Economic Development’s options to meet recent Council Legislative Intents on the Emergency Loan Program and discuss preferences for future actions. See policy question section for potential straw polls.

**ADDITIONAL INFORMATION AND BACKGROUND**

A. **Background.** In March 2020, the Council approved an Administration initiative to offer \$1 million in interest-free loans of up to \$20,000 each to small businesses—particularly restaurants and bars, retail stores, and events and arts organizations—which were hit especially hard by the public health protocols during the early days of the COVID-19 pandemic. This Emergency Loan Program was designed by the Department of Economic Development to be quickly available for filling immediate revenue gaps until Federal assistance could arrive. The Council allocated \$1 million for the ELP budget, and loan amounts ranged from \$5,000 to \$20,000. As the pandemic dragged on unpredictably and economic disruption became more profound, the Department unilaterally postponed the date for borrowers to begin loan repayment before coming to the Council months later with a proposal (see [September 2022 staff report](#)).

B. **Current Status of Emergency Loan Program Loans.** As of August 10, 2023, the Department reported the status of the ELP loans as follows:

	Number of borrowers	Share of borrowers
Paid in full	5	10%
Have begun monthly payments	7	13%
Owe \$333/month for 5 years	37	71%
Owe up to \$250/month for 5 years	3	6%
<b>Total</b>	<b>52</b>	<b>100%</b>

C. **Council Deferment.** In October 2022, the Council adopted an ordinance approving the deferment of Emergency Loan Program loans to December 31, 2024, and added the following three Legislative Intents. The Department of Economic Development responded to each of these Intents, as explained below.

1. **That the new deferment to the end of 2024 be offered as an “opt-in” process for each borrower, rather than occurring automatically.** This was accomplished through Department communication with each borrower. In each case, the borrower selected the option to defer to the new date.

2. **That a discount scaled to reflect current interest rates be offered to borrowers who are able to repay before the end of 2024.** Given increases in interest rates since early 2022, the Council recognized in the September 2022 briefing that incentives for early repayment could be financially advantageous for the City. Since the interest rates on these loans cannot be discounted below their current 0% level, reduction of the principal owed would be the only option to achieve this goal (see additional detail in section D, below). The City Attorney's Office worked with the Department on this issue and has determined that under State law any discount of principal would require the City to first perform an individual public benefit analysis (PBA) for each borrower who requested this option. These PBAs are typically an expensive process, but the Department appears willing to pursue this option if the Council chooses to do so. *Staff note: This approach could also be considered to be contrary to long-standing policy of not converting loans to grants, since reducing principal would essentially convert part of the loan to a grant. The Council may wish to have further discussion about this intent given the long-standing policy.*
3. **That by March 1, 2023, the Department of Economic Development propose criteria and processes for borrowers who might not have an alternative to loan "forgiveness" or write-off.** In spring of 2023, the Department requested additional time to develop a process to consider loan forgiveness. Council staff suggested delaying a transmittal until after the annual budget negotiations were complete. The transmittal arrived in the Council Office on July 25, 2023, and the proposal for borrowers who find themselves without potential to repay the loans is detailed in section D, below. *Staff note: The wording of this Legislative Intent may have reflected and amplified some confusion by including the term "loan forgiveness," and also mentioning "loan write-off." These two terms actually have different implications. For the borrower, a loan written-off under normal City processes does not lead to the loan being "forgiven." The money is still owed, the City could still attempt to collect on the loan, and the failure to repay it would be reflected on the credit rating of the borrower for least seven years. A forgiven loan does not require repayment and would not be reflected in a credit rating—in other words, with forgiveness, a loan becomes a grant. Staff note: As with the intent above, this approach, depending on the terminology, could also be considered to be counter to long-standing policy of not converting loans to grants. The Council may wish to have further discussion about this intent given the long-standing policy.*

D. **Proposed "Repayment Alternatives."** As noted above, one of the Council's Legislative Intents from its October 2022 Work Session discussion was that the Department propose criteria and processes for borrowers who are not able to repay their loans: either forgiveness or write-off by the City. In its July 25 transmittal, the Department recommends the use of an Economic Hardship Application template (see attachment to the transmittal), which is designed to gather information from borrowers who seek assistance with repaying their ELP loans. DED proposes to process these requests and decide on the appropriateness of "partial forgiveness" or "full forgiveness" of each loan on a case-by-case basis. In general, the Council accepts *recommendations* of this type from departments, as well as City boards and commissions. But actual decision making by DED on these loans would be appropriate only if the Council chooses to delegate its budget authority to the Department, which is not typical. As noted previously, if the Council did choose to do so, the City Attorney's Office determined that under State law, each proposed conversion of a loan to a grant would require an individual public benefits analysis. *The Council may wish to have further discussion about this intent given the long-standing policy.*

1. **Partial Forgiveness.** The Department would determine a new, reduced payment amount based on the applicant's ability to pay and calibrated to a re-amortization period of up to ten years rather than the original five-year repayment period. If, at the end of the five years, the borrower has made consistent payments of the new, lower amount, the portion of the loan which remains unpaid would be forgiven. *The Council may wish to have further discussion about the proposal, given the long-standing policy of not converting loans to grants, and discuss alternatives with the Department.*
2. **Enhanced Forgiveness.** Based on some Council Member comments in the 2022 briefing, the Department also proposed potentially reducing monthly payments for some businesses based on both their ability to pay (as above), as well as their proposals to offer some sort of "public or economic benefit to Salt Lake City." The idea of allowing borrowers to essentially repay their loans in this way was *not* formalized into a Legislative Intent because, as was mentioned in the Work Session, it would likely create inequities among City loan programs in other departments. The example provided in the Work Session was that this option is not offered to participants in CAN's Home Repair Program, who receive low- and no-interest loans with no possibility of forgiveness. The program offers grants to those participants who earn less than 50% AMI, but the determination of whether a homeowner receives a loan or a grant is made before work begins.

Other inequities could potentially be created within the Emergency Loan Program itself including:

- for those who chose *not* to apply for these loans in 2020, when they were offered, because of concerns about their ability to repay them, and
- those borrowers in the Emergency Loan Program who have already repaid or begun repaying their own loans before this option was proposed.

*Given that this aspect of Department's proposal was not initially included in the Council's intent, the Council may wish to provide feedback on it.*

*Staff note: Related Policy Questions for potential Council discussion can be found in the next section.*

## POLICY QUESTIONS

1. For the past several years, the Council's policy has been to prohibit any City loan from being transformed into a grant. Concurrently, the Council also began to assert its fiscal authority, reclaiming budget-related functions including oversight of a variety of loan programs across several departments, which had been ceded to the Administrative branch over the years. In the October 2022 Work Session on ELP loans, it was unclear whether some Council Members were proposing to change (or suspend) the current loan policy—which would be the essential effect of the forgiveness process proposed in DED's transmittal. ***The Council may wish to discuss whether or not it wishes to modify this policy and consider "loan forgiveness" for ELP loans.*** To assist in this discussion, Council staff suggests some potential straw polls:
  - a. ***If the Council does choose to offer a process of "loan forgiveness" for some ELP loans, would it consider this a one-time policy exception, or a decision that would change its current policy that prohibits transforming City loans into grants? Alternatively, would the Council prefer to reconsider its Legislative Intent given the Federal aid that was offered subsequent to City aid, along with improving economic conditions since 2022, and long-standing City policy regarding loan forgiveness?***

- b. ***If this is to be a one-time exception, what would be the rationale for it?***
  - i. The rationale might, for example, be related to the uniqueness of the COVID-19 pandemic, or the City's tradition of small-business support.
  - ii. In this case, the Council might like to consider other City loan programs that could be eligible for this kind of exception.
- c. ***If Council Members are interested in a broader policy change that would allow other loan programs to potentially change existing loans into grants, is there a rule of thumb (or criteria) that might help determine which City loans would be eligible? How that could be determined on an equitable basis across departments and businesses?***

- 2. ***Would the Council like to consider a different alternative repayment option for borrowers who would special hardships with repayment?*** The Department proposes to forgive certain loans after five years of partial repayment, which does not comply with current Council policy. One potential alternative for borrowers experiencing special hardships could be to extend the repayment period to ten years ***without*** offering forgiveness of the remaining balance after the first five years. For those borrowers who owe the maximum of \$333 per month, this would reduce monthly payments to \$166.50 per month. This approach could help avoid granting any loan forgiveness, but the Council may wish to ask the Department whether the costs of administering loans of this relatively small size over an additional five years (for a total of ten years) would justify the benefits.
- 3. ***Since there is a disincentive to repay loans when the interest rate is lower than the rate of inflation, the Council could ask the Attorney's Office whether a low (but non-zero) interest rate could be added to loans for which borrowers request loan extension. The Council might also wish to consider adding some level of interest payment to loans that do not begin repayment by a certain deadline.***

#### 4. **Other Potential Policy Questions.**

- a. The Economic Hardship Application template attached to the transmittal gathers information from borrowers who seek assistance with repaying their ELP loans, but the actual criteria that the Department would use to make the decision of whether to allow some sort of forgiveness is not spelled out. ***Would the Council like to request this information from the Department?***
- b. The Department also did not mention any criteria in the transmittal for *rejecting* applications for loan forgiveness. ***The Council may wish to ask whether the Department intends not to refuse any requests.*** The Council also could consider scheduling additional conversations with the Department to review its draft assessment plans.
- c. ***Would the Council like to initiate a policy discussion on the City's current policies in cases of loan default?*** In response to a staff question, the Finance Department reported that while it offers collection services to City departments, this process is primarily used for individuals and companies that fail to pay fines or fees owed, rather than for loan collections. The Attorney's Office also is likely to be key resource in this respect.