

AGENDA

STANISLAUS COUNTY REDEVELOPMENT AGENCY

1010 10TH STREET, BASEMENT LEVEL, MODESTO

SEPTEMBER 29, 2009

9:15 A.M.

- I. CALL TO ORDER**
- II. CONSENT CALENDAR (Those items marked with an *)**
- III. APPROVAL OF MINUTES**
 - A. Minutes of May 5, 2009
- IV. CORRESPONDENCE**
 - A. None
- V. PUBLIC HEARINGS**
 - A. None
- VI. AGENDA ITEMS**
 - *A. Approval to Accept the Stanislaus County Internal Audit Division's Proposal to Conduct the 2008-2009 Audit.
 - *B. Approval to Grant the Monterey Park Tract Community Services District \$40,000 in Match Funds for a \$200,000 Safe Drinking Water State Revolving Fund Project Grant to Conduct a Planning Study to Evaluate the Feasibility of Alternative Water Sources and to Authorize Transfer of an Agency Owned Parcel for Use as a Well Site.
 - C. Approval to Adopt the Proposed Budget Fiscal Year 2009-2010 of \$5.4 Million.
- VII. PUBLIC FORUM**
- VIII. ADJOURNMENT**

MINUTES

STANISLAUS COUNTY REDEVELOPMENT AGENCY

MAY 5, 2009

The Stanislaus County Redevelopment Agency met in the Joint Chambers at 10th Street Place, Basement Level, 1010 10th Street, Modesto, California.

I. CALL TO ORDER

The meeting was called to order at 9:25 a.m.

Members present: Jim DeMartini, Jeff Grover, William O'Brien,
Dick Monteith, and Vito Chiesa

Members absent: None

Staff present: Kirk Ford, Executive Director and Aaron
Farnon, Community Development Manager

II. CONSENT CALENDAR (*)

Upon motion by Agency members Grover/O'Brien, Agency unanimously approved the Consent Calendar. (4-0) (Supervisor Chiesa abstained)

III. APPROVAL OF MINUTES

A. Upon motion by Agency members, Grover/Monteith, the Agency approved the minutes of December 9, 2009. (4-0) (Supervisor Chiesa abstained)

IV. CORRESPONDENCE

A. None

V. PUBLIC HEARINGS

A. None

VI. AGENDA ITEMS

*A. Authorized the Executive Direct to request repayment of the principle and waive payment of accrued interest related to a loan made to the Stanislaus Ceres Redevelopment Commission (SCRC) on 7/12/1991 in the amount of \$64,694.

- B. Upon motion by Agency members Grover/Monteith, accepted the Revised Preliminary Redevelopment Plan for the Crows Landing Air Facility; directed staff to prepare a Redevelopment Plan for a Draft Environmental Impact Report; authorized the Agency transmittal of information to taxing agencies and officials; and directed Agency staff and consultants commence preparation of a Draft Environmental Impact Report. (4-1)(Supervisor DeMartini opposed)

VII. PUBLIC FORUM

- A. Kirk Ford, Executive Director, provided the Agency with an update of the lawsuit concerning AB 1390 transfer of Redevelopment Agency funds to State Educational Revenue Augmentation Fund (ERAF).

IX. ADJOURNMENT

The meeting adjourned at 9:46 a.m.



Kirk Ford
Executive Director

Sitting as the Redevelopment Agency
THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Redevelopment Agency

BOARD AGENDA # 9:15 a.m. - *VI-A

Urgent Routine

AGENDA DATE September 29, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Accept the Stanislaus County Internal Audit Division's Proposal to Conduct the Fiscal Year 2008-2009 Audit

STAFF RECOMMENDATIONS:

Accept the Stanislaus County Internal Audit Division's proposal to conduct the Fiscal Year 2008-2009 audit.

FISCAL IMPACT:

The total cost of the audit will not exceed \$8,500. There are sufficient funds in the Redevelopment Agency budget for Fiscal Year 2009-2010 to cover this annual expense.

BOARD ACTION AS FOLLOWS:

No. 2009-660

On motion of Supervisor Grover, Seconded by Supervisor O'Brien

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None


1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

The Agency has received a proposal from the Stanislaus County Internal Audit Division to conduct the required audit for Fiscal Year 2008-2009. The audit procedure would commence September 2009 and be completed by October 30, 2009. The total cost of the audit will not exceed \$8,500.

Section 33080.1 of the Health and Safety Code requires every redevelopment agency to present a financial report to its legislative body within six months of the end of the agency's fiscal year. The report shall contain all of the following:

- (a) An independent financial audit report for the previous fiscal year.
- (b) A fiscal statement for the previous year.
- (c) A description of the agency's activities affecting housing and displacement.

A copy of the audit proposal is attached.

POLICY ISSUES:

It is the policy of the Agency to direct its staff to prepare required reports and submit them to appropriate agencies. These reports respond to the Board of Supervisors priorities of promoting a safe community, a healthy community, a well-planned infrastructure system, a strong local economy and effective partnerships.

STAFFING IMPACT:

There are no additional staffing impacts associated with this item.

ATTACHMENTS:

1. Audit Proposal



June 29, 2009

Stanislaus County
Redevelopment Agency
Kirk Ford, Executive Director
1010 10th Street, Suite 3400
Modesto, CA 95354

We are pleased to confirm our understanding of the services we are to provide Stanislaus County Redevelopment Agency for the year ended June 30, 2009. We will audit the financial statements of the governmental activities which collectively comprise the basic financial statements of Stanislaus County Redevelopment Agency, a component unit of Stanislaus County, California as of and for the year ended June 30, 2009. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany Stanislaus County Redevelopment Agency's basic financial statements. As part of our engagement, we will apply certain limited procedures to Stanislaus County Redevelopment Agency's RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the basic financial statements taken as a whole. Our audit will be conducted in accordance with auditing standards generally accepted established in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, along with audit guidelines issued from the California State Controller for Compliance Audits of California Redevelopment Agencies, and will include tests of the accounting records of Stanislaus County Redevelopment Agency and other procedures we consider necessary to enable us to express such opinions. If our opinions on the financial statements are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and compliance will include a statement that the report is intended solely for the information and use of management, the Board of Supervisors, and the California State Controller's Office and is not intended to be and should not be used by anyone other than these specified parties. If during our audit we become aware that Stanislaus County Redevelopment Agency is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. As part of the audit, we will assist with preparation of your financial statements and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; for the selection and application of accounting principles; and for the fair presentation in the financial statements of the respective financial position of the governmental activities of the Stanislaus County Redevelopment Agency in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for ensuring that management and financial information is reliable and properly recorded. Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Stanislaus County Redevelopment Agency's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to Stanislaus County Redevelopment Agency; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of the Stanislaus County Auditor-Controller's Office, Internal Audit Division and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to the California State Controller or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of the Stanislaus County Auditor-Controller's Office, Internal Audit Division personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

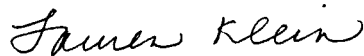
The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the California State Controller. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately September 15, 2009 and to issue our reports no later than October 30, 2009. Lauren Klein is the engagement manager and is responsible for supervising the engagement and signing the reports. Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$8,500. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2006 peer review report accompanies this letter.

We appreciate the opportunity to be of service to Stanislaus County Redevelopment Agency and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,



Lauren Klein, CPA
Stanislaus County
Auditor-Controller's Office
Internal Audit Manager

RESPONSE:

This letter correctly sets forth the understanding of Stanislaus County Redevelopment Agency

By: 

Title: EXECUTIVE DIRECTOR

Date: 9/14/09

CC: California State Controller

Sitting as the Redevelopment Agency
THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Redevelopment Agency

BOARD AGENDA # 9:15 a.m. - *VI-B

Urgent

Routine

AGENDA DATE September 29, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Grant the Monterey Park Tract Community Services District \$40,000 in Match Funds for a \$200,000 Safe Drinking Water State Revolving Fund Project Grant to Conduct a Planning Study to Evaluate the Feasibility of Alternative Water Sources and to Authorize Transfer of an Agency owned Parcel for Use as a Well Site

STAFF RECOMMENDATIONS:

1. Approve the granting of \$40,000 in Match Funds to the Monterey Park Tract Community Services District for a \$200,000 Safe Drinking Water State Revolving Fund Project.
2. Authorize the Agency's Executive Director to transfer an Agency-owned parcel to the Monterey Park Tract Community Services District for development of a well site and to enter into any agreements needed to allow the District use of the Agency's parcel for development of a well site; including the drilling of test wells. (APN: 022-029-030 - 7624 Monterey Avenue)

FISCAL IMPACT:

This request will be funded by existing Stanislaus County Redevelopment Agency revenues previously allocated to assist Monterey Park Tract. There will be no impact to the current year's budget.

BOARD ACTION AS FOLLOWS:

No. 2009-661

On motion of Supervisor Grover, Seconded by Supervisor O'Brien
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Grant the Monterey Park Tract Community Services District \$40,000 in Match Funds for a \$200,000 Safe Drinking Water State Revolving Fund Project Grant to Conduct a Planning Study to Evaluate the Feasibility of Alternative Water Sources and to Authorize Transfer of an Agency-Owned Parcel for Use as a Well Site

Page 2

DISCUSSION:

The Monterey Park Tract Community Services District (MPTCSD) is requesting \$40,000 in match funds from the Stanislaus County Redevelopment Agency for a \$200,000 Safe Drinking Water State Revolving Fund grant approved by the California Department of Public Health earlier this year. The MPTCSD water system serves a population of 130 through 38 service connections fed by two wells located within the District's boundaries.

Since much of the ground water in the vicinity of Monterey Park Tract is impacted with one or more contaminants at levels in excess of drinking water standards, the primary purpose of the planning study is to determine if there is a location and set of well construction parameters that can produce potable water from a well within MPTCSD or at an alternate location reasonably close to MPTCSD.

The \$200,000 grant will be used to conduct a planning study to evaluate the feasibility of establishing new sources of water and/or treatment of existing wells. Alternatives for new sources of water to be analyzed in the study include consolidation with the City of Ceres and the drilling of new wells both inside and outside the District's boundaries. Treatment alternatives will focus on determining the most effective treatment methods for potential contaminants. The project includes enough funds to drill up to two test wells, one within Monterey Park Tract and the other at a location close to Monterey Park Tract where better quality water might be available if the test well within Monterey Park Tract does not produce the desired quality water.

If the study results in positive findings, it will be followed by a construction grant program to complete a new well and connect the water to the Monterey Park Tract distribution system. According to the Department of Public Health, that will likely be another program funded 80% with Department of Public Health grant funds along with 20% local funds. If the planning study yields favorable results with the expenditure of only a fraction of the allocated \$200,000, the balance will be left with the contributors for use in the construction phase.

The District has been working with Self-Help Enterprises since 2004 to secure grants to improve its water system. In March of 2004, the Agency approved \$7,500 for engineering studies needed for the District to apply for a United States Department of Agriculture (USDA) grant to construct infrastructure improvements to the water system. Additional funding for this study and preparation of the USDA grant was also provided by Self-Help Enterprises and the District. The District applied for the USDA grant, but the project was ultimately deemed to be ineligible for the grant. Self-Help Enterprises has assisted with the writing and preparation of this current State Revolving Fund grant and will be assisting the District with administration of the grant. The California Department of Public Health will be the lead in conducting and preparing the planning study, and is currently awaiting verification of local matching funds to complete the funding agreement with the Community Services District.

Approval to Grant the Monterey Park Tract Community Services District \$40,000 in Match Funds for a \$200,000 Safe Drinking Water State Revolving Fund Project Grant to Conduct a Planning Study to Evaluate the Feasibility of Alternative Water Sources and to Authorize Transfer of an Agency-Owned Parcel for Use as a Well Site

Page 3

In June of 2009, Agency staff entered into an option agreement with the District for use of an Agency-owned parcel, located within the District's boundaries, for drilling of a test well and production well, should the results of the test well prove favorably (APN 022-029-030 – 7624 Monterey Avenue). The option agreement is good for twenty (20) months and grants the District the exclusive right to purchase the parcel for use as a well site. The total purchase price of the parcel will be one dollar and will be conditioned to have ownership revert back to the County at any time the parcel no longer serves the District as a well site. The parcel was acquired by the Agency in February of 2005 by a "Trustee's Deed Upon Sale". The parcel had been the subject of a \$40,000 deferred loan issued in 1995 by the Agency for housing rehabilitation. The house was not covered by insurance when it burned down in 2001 and the owner was unable to secure a loan to re-build the house. Ultimately, the property owner filed for bankruptcy in 2002 and the Agency acquired the vacant parcel through foreclosure in 2005.

This item requests authorization to allow the Agency's Executive Director to transfer the Agency-owned parcel to the District for development of a well site and to enter into any agreements needed to allow the District use of the Agency's parcel for development of a well site; including the drilling of test wells.

POLICY ISSUES:

This request is consistent with the Board of Supervisors priorities of promoting a safe community, a healthy community, a well-planned infrastructure system, and effective partnerships.

STAFFING IMPACT:

There are no additional staffing impacts associated with this item.

ATTACHMENTS:

None

Sitting as the Redevelopment Agency
THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Redevelopment Agency

BOARD AGENDA # 9:15 a.m. VI-C

Urgent Routine

AGENDA DATE September 29, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt of the Proposed Budget Fiscal Year 2009-2010 of \$5.4 Million

STAFF RECOMMENDATIONS:

1. Adopt the Proposed Budget Fiscal Year 2009-2010 of \$5.4 Million.
2. Authorize the Agency's Executive Director to take all necessary steps to implement the Proposed Budget Fiscal Year 2009-2010 including the execution of contracts with the Housing Authority of the County of Stanislaus in excess of \$100,000, but not to exceed the allocated budget amount.

FISCAL IMPACT:

It is estimated that the Agency will receive \$5,400,000 in property tax increment for Fiscal Year 2009-2010. The Redevelopment Agency is fully funded from tax increment and does not rely on the County's General Fund.

BOARD ACTION AS FOLLOWS:

No. 2009-662

On motion of Supervisor Chiesa, Seconded by Supervisor O'Brien

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

During Fiscal Year 2008-2009, the Agency:

- Completed the engineering and design for Phase II of the Keyes Storm Drainage Infrastructure Project, completed the bid process, and initiated construction of the project.
- Completed the engineering and design for Phase 1A of the Empire Storm Drainage Infrastructure Project.
- In partnership with Habitat for Humanity, facilitated the purchase of five (5) single family homes in the Airport Neighborhood for rehabilitation and sale to targeted-income households.
- Assisted thirty-four (34) households in rehabilitating their homes. Eighteen (18) Minor Home Repairs including seven (7) mobile/modulars, two (2) Major Home Repairs, and fourteen (14) sewer connections.
- Assisted six (6) households purchase their first home.
- Provided a cleanup campaign opportunity in the communities of Riverdale Park Tract, Monterey Park Tract, Grayson, Airport Neighborhood, Crows Landing, Hickman, and staffed two (2) special district cleanups funded by the Paradise South Weed and Seed Partnership and Stanislaus-Ceres Redevelopment Commission.

The Fiscal Year 2009-2010 Agency Budget was prepared using the Redevelopment Agency's Implementation Plan and current obligations as guidelines. The following activities proposed for the Fiscal Year 2009-2010 Proposed Budget reflect those guidelines:

1. **Debt Service:** The Agency will continue its debt service obligations. Currently, the Agency has two (2) short-term (a-b) and two (2) long-term (c-d) debt obligations:
 - a. State Water Board - balance owed: \$1,111,965.20 for Bret Harte Sewer. Final payment due December of 2015.
 - b. CalHFA Down Payment Assistance (DPA) Loan – balance owed: \$173,250 for DPA program. Final payment due June of 2016.
 - c. United States Department of Agriculture/Rural Development Services – balance owed: \$7,855,788.85 for Salida Storm Drain. Final payment due August of 2041.
 - d. Tax Allocation Bond – balance owed: \$25,344,160 for Keyes Storm Drain. Final payment due August of 2036.

Payments to be made during Fiscal Year 2009-2010 are \$179,150.74, \$104,465.00, \$240,509.00 and \$808,727.89, respectively for a total of \$1,332,852.63. Both short-term debt obligations will be paid for using Housing Set-Aside funds.

The projects discussed above implement the Board of Supervisors priorities of a well-planned infrastructure system and effective partnership.

2. **Administration Services:** The Agency will strive to maintain a 10% Administrative Services cap and estimates total costs to be \$540,000 (10% of revenue projection). This amount includes salaries and benefits for one full-time staff person, as well as services performed on behalf of the Agency by other County departments (e.g., Planning and Community Development, County Counsel, Strategic Business Technology, Auditor-Controller, and Public Works), general office overhead (mailing, printing, supplies, janitorial, phone, and the like), travel, publications, professional memberships, and seminars. This category also includes services provided by Agency Legal Counsel, Miller, Owen and Trost and the performance of an independent audit.
3. **Housing Related Activities:** The Agency will continue its Housing Rehabilitation Programs, First Time Homebuyer Programs, and Land Acquisition Programs. The allocation proposed for these respective activities is \$250,000, \$300,000, and \$66,384 for a total of \$616,384. Housing Set-Aside will be used to fund these programs.

These programs will implement the Board of Supervisors priorities of a strong local economy and effective partnerships.

4. **Health and Safety Program:** The Agency is proposing to allocate \$45,000 to address activities that may include financial assistance to prevent or eliminate health and safety issues (e.g. – emergency sewer connections for failing septic systems).

This program will implement the Board of Supervisors priorities of a safe community and a healthy community.

5. **Neighborhood Cleanup Program:** This program has been a success in previous years and an allocation of \$45,166 is proposed to accommodate a targeted six (6) additional events including, but not limited to, the communities of Denair and Shackelford (including the local Parklawn designation), Bret Harte, Valley Home, and the Airport Neighborhood

This program will implement the Board of Supervisors priorities of a safe community, a healthy community, and effective partnerships.

6. **Economic Development Program:** An allocation of \$5,000 is proposed to allow the Agency to partner with workforce development programs being conducted within its areas.

These programs will implement the Board of Supervisors priorities of a strong local economy and effective partnerships.

7. **Estimated Fiscal Year 2009-2010 State “Supplemental” Educational Revenue Augmentation Funds (ERAF) Payment:** In July 2009, the California Legislature and Governor approved budget bill AB 26 4x which authorizes a \$2.05 billion taking of local redevelopment funds, including \$1.7 billion in Fiscal Year 2009-2010 and another \$350 million in Fiscal Year 2010-2011. These funds will be distributed to schools to meet the State’s Proposition 98 obligations to education.

The structure for the redevelopment fund shift is similar to last year’s budget trailer bill, AB 1389, which was successfully blocked by a lawsuit from the California Redevelopment Association (CRA). The primary difference is that, in an effort to get around CRA’s successful lawsuit, the Legislature created a new county “Supplemental” ERAF (SERAF). Under this new SERAF, redevelopment funds are to be distributed to a K-12 school district(s) or county office of education located partially or entirely within any project area of the redevelopment agency.

The 2008 case, which was decided by a Sacramento Superior Court judge in April 2009, has been appealed by the State and will continue to move through the 3rd District Court of Appeal. CRA and its member agencies are preparing to file a lawsuit again to challenge the constitutionality of the State taking redevelopment funds by AB 26 4x.

The Department of Finance will determine each agency’s SERAF payment by November 15th of each year. The estimated total impact to the Stanislaus County Redevelopment Agency is \$2,815,597 in Fiscal Year 2009-2010 and \$579,682 in Fiscal Year 2010-2011.

Under AB 26 4x, an agency must make its full required SERAF payments using any available funds, and that includes funds being accumulated in order to do a project.

An agency failing to timely make its SERAF payment – even if it must do so to pay existing obligations – is subject to the following:

An agency may not adopt a new redevelopment plan, amend an existing plan to add territory, issue bonds, further encumber funds, or expend any moneys derived from any source except to pay pre-existing indebtedness, contractual obligations, and 75% of the amount expended on agency administration for the preceding fiscal year.

This penalty would last until the required SERAF payments have been made.

In addition, the agency must increase its Housing Set-Aside by 5% on July 1, 2010 or July 1, 2011, whichever is applicable, for the remainder of the time the agency receives tax increment.

For informational purposes, a list of frequently asked questions provided by CRA about the 2009 State taking of redevelopment funds and litigation has been attached. (See Attachment 1)

The Agency expects that sufficient funds will be available from the current year's tax increment revenue to cover the Fiscal Year 2009-2010 SERAF payment. However, because of the payment, allocations for many projects, including larger infrastructure projects, will not be available.

The following provides a summary of revenues and allocations for Fiscal Year 2009-2010, including the \$2.8 million SERAF payment:

ACTIVITY	DESCRIPTION	BUDGET
1	Debt Service Obligation	\$ 1,332,853
2	Administration Services	\$ 540,000
3	Housing Related Activities	\$ 616,384
4	Health and Safety Program	\$ 45,000
5	Neighborhood Cleanup Program	\$ 45,166
6	Economic Development Program	\$ 5,000
7	Estimated State 2009 SERAF Payment	<u>\$ 2,815,597</u>
	TOTAL	\$ 5,400,000

This budget is based on anticipated tax increment revenue for Fiscal Year 2009-2010 of \$5,400,000. The focus of the budget is on meeting existing debt obligations, administrative costs, housing related activities using Housing Set-Aside funds, and the mandatory payment to the SERAF. The Agency will continue existing projects with previously allocated funds including the Keyes and Empire Storm Drain Projects.

Fiscal Year 2010-2011 is expected to show a decreased tax increment and will also include an additional SERAF payment. Agency staff will be monitoring revenues and expenditures closely and will return to the Agency Board for budget adjustments, if needed.

Agency staff will be preparing and submitting an update to the 2005-2009 Redevelopment Implementation Plan in late 2009/early 2010. This updated plan will include an analysis of the Agency's programs, priorities, and funding constraints and opportunities.

POLICY ISSUES:

As discussed specifically in each program and project proposed, this budget addresses goals and objectives of the Redevelopment Agency and the Board of Supervisors. It also directly implements the General Plan, Capital Improvement Program and the Agency's Implementation Plan. The Agency's budget implements the Board of Supervisor's priorities of promoting a safe community, a well-planned infrastructure system, a strong local economy, effective partnerships, and a healthy community.

STAFFING IMPACT:

There is one staff person assigned to the Redevelopment Agency. Additional services provided by the Department of Planning and Community Development and various departments within county government are compensated within the Administrative Services budget item. No additional staff is requested.

ATTACHMENTS:

1. Frequently Asked Questions about the 2009 Raid of Redevelopment Funds and Litigation Distributed by the California Redevelopment Association.



FREQUENTLY ASKED QUESTIONS About the 2009 State Raid of Redevelopment Funds and Litigation

(Questions about SERAF and payments begin on page 3)

ABOUT THE LAWSUIT

1. Why is the State taking redevelopment money if CRA was successful in last year's lawsuit challenging AB 1389?

CRA was successful in blocking a 2008 proposed shift of \$350 million in redevelopment funds in Sacramento Superior Court. The State claims the 2009 budget legislation, AB 26 4x, fixes the constitutional issues raised by the Superior Court by directing the redevelopment funds to schools and students within the boundaries of a redevelopment agency project area. The state claims that funding schools within a redevelopment project area "furthers" the purpose of redevelopment. CRA and its attorneys believe that AB 26 4x is also unconstitutional on the same grounds that AB 1389 was successfully challenged.

2. Does the new legislative language address the constitutional issues and Superior Court ruling?

No. AB 26 4x is unconstitutional because the unquestionable purpose of this budget bill is to help balance the State's budget, not to further the purpose of redevelopment. Under AB 26 4x, schools won't receive one dime more than already guaranteed from the State. AB 26 4x simply shifts the obligation from the State to redevelopment agencies.

Further, it is not enough that tax increment be spent within a redevelopment project area. The constitutional requirement is that tax increment be spent to repay indebtedness incurred to finance the redevelopment project. AB 26 4x's redirection of tax increment to SERAF fails the constitutional requirement because the revenues diverted are not related or proportional to the cost of any direct benefit to the redevelopment project.

3. On what grounds will you sue to invalidate AB 26 4X?

Article XVI, Section 16 of the California Constitution states that redevelopment tax increment funds can only be used for specified redevelopment activities, specifically "*to finance or refinance... the redevelopment project.*" Taking redevelopment funds to balance the State's budget – the unquestionable purpose of AB 26 4x – does not qualify as a constitutionally permitted use of redevelopment funds and is therefore unconstitutional.

Additionally, the State and Federal Constitutions prohibit the Legislature from enacting laws that impair the obligation of contract. Raiding \$2.05 billion in redevelopment funds will

jeopardize bond covenants and other contractual obligations entered into by many redevelopment agencies creating an unconstitutional impairment of contract.

4. What is the latest on the appeal of last year's Superior Court ruling.

The 2008 case, which was decided by a Sacramento Superior Court judge in April 2009, has been appealed by the State and will continue to move through the 3rd District Court of Appeal. It will be many months before the Court of Appeal will ultimately rule.

5. When is the new lawsuit going to be filed?

We anticipate filing in the fall of 2009.

6. Who are the attorneys representing CRA in the lawsuit?

The same legal team that successfully represented CRA in the 2008 litigation has been retained. The two firms retained are McDonough Holland & Allan, and Nielsen, Merksamer, Parrinello & Naylor.

7. In which court do you plan to file?

Last year, we filed in Sacramento Superior Court. We are evaluating our options, but filing in this same court is likely.

8. Instead of filing in Superior Court, why doesn't CRA file its lawsuit against the State directly with the Court of Appeals or the Supreme Court?

CRA's legal team has carefully evaluated where the case should be initially filed. At this time, it is their judgment that the case should be filed in Superior Court for the following reasons:

(1) Neither the Supreme Court nor the Court of Appeal is required to accept an original petition for writ of mandate. Most petitions for writ of mandate filed in appellate courts are denied without being decided. This is the court's way of saying "start in a lower court." It could, however, take weeks or months for the appellate court to make the decision about whether to accept the petition. If the court did not accept the petition and required it to be filed in a lower court, we would lose time critical to getting a decision before May 10.

(2) The ability to make a factual record in an appellate court is far more constrained than in the Superior Court. CRA's legal team believes that it will be especially important in this case to make a strong factual record. The best place for doing that is the Superior Court.

(3) As was the case with the AB 1389 litigation, CRA's objective is to obtain a ruling from the Superior Court that will apply to all agencies prior to May 10.

9. Who are the plaintiffs in the case?

CRA and its legal team are doing an exhaustive analysis to evaluate the best plaintiffs. In the 2008 litigation, the California Redevelopment Association and two redevelopment agencies (serving as representatives of all agencies in the state) were plaintiffs, as was John Shirey, CRA Executive Director, in his role as a California taxpayer. It is likely that we will again have a small number of agency plaintiffs in this litigation, though we are evaluating all options.

10. Who are the defendants?

Very likely, as in the 2008 litigation, the State of California Department of Finance will be the principal defendant in the lawsuit. For technical reasons, we may once again include county auditors as defendants, since auditors are the ones charged with the transfer of payments from redevelopment agencies into county Supplemental Educational Revenue Augmentation Funds (SERAF).

11. How is CRA going to pay for the lawsuit?

All Member Agencies have been notified by CRA that it may be necessary to ask them to pay a proportionate share of the costs of the lawsuit similar to what was done for the first lawsuit.

12. Can my agency become a plaintiff? If so, how?

As with the successful 2008 litigation, CRA will likely select only a few plaintiffs that have facts representative of the legal arguments we intend to make. CRA and its legal team are doing an exhaustive analysis. If your agency is interested in becoming a plaintiff, please contact Brent Hawkins at McDonough Holland & Allan at bhawkins@mhalaw.com or (916) 444-3900 as soon as possible.

13. Can my agency sue the State directly without joining the CRA lawsuit?

We strongly recommend that agencies not file separate litigation against the State. Multiple suits will lead to greater costs and possible delays in getting a decision from the court.

14. Section 10 of AB 26 4x states that if a court finds a remittance is not legally permissible for a particular redevelopment agency, such determination has no effect on all other agencies. Does that mean that all agencies must join the lawsuit as plaintiffs in order to block the SERAF transfers?

Since CRA is challenging the constitutionality of AB 26 4x, a favorable finding by the court will invalidate the statute in total and, thus, the ruling will benefit all redevelopment agencies.

CRA's legal team is also examining the possibility of filing the case as a class action with a few named redevelopment agencies representing a class of all redevelopment agencies required to make the SERAF payment. This would eliminate any need for all individual agencies to join the suit.

ABOUT THE NEW SERAF

15. What is the difference between past ERAF takes and AB 26 4X's "SERAF" take?

The structure for the redevelopment fund shift is similar to last year's budget trailer bill, AB 1389. The primary difference is that, in an effort to get around CRA's successful lawsuit, the Legislature created a new county "Supplemental" ERAF (SERAF). Under this new SERAF, redevelopment funds are to be distributed to a K-12 school district(s) or county office of education located partially or entirely within any project area of the agency.

16. How does the new SERAF work?

The funds deposited into the new county SERAF must be distributed to a K-12 school district or county office of education located partially or entirely within any project area of the agency.

- The funds distributed to schools or county offices of education from the SERAF must be used to serve pupils living in the project area or in housing supported by redevelopment funds. *(It is unclear how an agency is supposed to determine how many students are in housing supported by redevelopment funds).*
- The total amount of SERAF funds received by a school district is deemed to be local property taxes and will reduce dollar-for-dollar the State's Prop 98 obligations to fund education.
- The funds in the SERAF cannot go to cities and counties to compensate them for the Vehicle License Fee swap and Triple Flip as is the case under ERAF.

17. How and when is each Agency's SERAF payment calculated?

The Department of Finance will determine each agency's SERAF payment by November 15 of each year. The formula for calculating the amount each agency must pay is based half on net tax increment (net of pass-throughs) and half on gross tax increment. The legislation states that the calculations for FY 2009-10 and FY 2010-11 will be based on State Controller's Office Tax Increment data for FY 2006-07.

CRA has posted an *estimate* of each agency's payment for each fiscal year on its website at www.calredevelop.org. It's important to note that these figures are just an estimate based on the implementing legislation. The Department of Finance will produce the actual SERAF amount owed by each agency for FY 2009-10 by November 15, 2009.

18. Why does AB 26 4x require the Director of Finance to use 2006-07 data from the State Controller to calculate SERAF payments when 2007-08 data is available?

We do not know if this is intentional or an oversight, but differences in payments are significant depending on which year's State Controller data is used by the Department of Finance.

19. When does my agency have to pay its share of the take?

Payments are due by May 10 of the applicable fiscal year. The legislative body of the redevelopment agency must report to the county auditor by March 1 how it intends to fund the payment.

20. Should I pay my SERAF early?

No. Because of the pending litigation, CRA recommends not making any payments until further notice. CRA will regularly inform its members of the progress of the lawsuit.

21. What funds can I use to make the SERAF payment?

The agency can use any legally available funds to make the SERAF payment. For FY 2009-10, the agency may "suspend" all or part of the required 20% allocation or set aside to its Low- and Moderate-Income Housing Fund (Housing Fund) in order to make the payment. The agency may not use any accumulated funds from past years in its Housing Fund to make payments.

- The Housing Fund must be repaid by June 30, 2015.
- If the agency fails to repay the Housing Fund, the required allocation of tax increment to the Housing Fund is increased by 5% (25% for most project areas) for as long as the project area continues to receive tax increment.

The local legislative body (City Council or County Board of Supervisors) may also lend the SERAF payment to the agency and, in that case, the agency is authorized to repay the legislative body from tax increment.

- The legislative body may make the payment on behalf of the agency.
- The provisions of existing law which permit a joint powers authority (i.e. CSCDA or California Communities) to sell bonds and loan the proceeds to redevelopment agencies in order to make ERAF payments are also available for the 2009-10 and 2010-11 payments.

Lastly, a separate, but overlapping, section of AB 26 4x permits an agency to borrow the amount required to be allocated to the LMIHF in order to make the SERAF payment.

- This provision apparently applies to fiscal years 2009-10 and 2010-11.
- It requires a finding that there are insufficient non Housing funds to make the SERAF payment. (There is no parallel requirement to make findings for the “suspension” in FY 2009-10.)
- Amounts “borrowed” from the current year allocation to the Housing Fund under this section must also be repaid by June 30, 2015 or June 30, 2016, as applicable.

22. Is the obligation to make the SERAF payment subordinate to obligations to repay bonds and other indebtedness?

Yes. An agency may pay less than the amount required if it finds that it is necessary to make payments on existing obligations required to be committed, set-aside, or reserved by the agency during the applicable fiscal year. An agency that intends to pay less than the required amount in order to pay existing obligations must adopt a resolution prior to December 31, 2009, listing the existing indebtedness and the payments required to be made during the applicable fiscal year.

However, it is important to note that agencies that fail to make their SERAF payments are subject to the “Death Penalty” as described below.

23. What happens if an agency fails to make its SERAF payment?

An agency failing to timely make its SERAF payment – even if it must do so to pay existing obligations – is subject to the “Death Penalty” as follows:

- An agency may not adopt a new redevelopment plan, amend an existing plan to add territory, issue bonds, further encumber funds, or expend any moneys derived from any source except to pay pre-existing indebtedness, contractual obligations, and 75% of the amount expended on agency administration for the preceding fiscal year.
- This penalty would last until the required SERAF payments have been made.

In addition to suffering the Death Penalty, the agency must increase its housing set-aside by 5% on July 1, 2010 or July 1, 2011, whichever is applicable, for the remainder of the time the agency receives tax increment.

24. What happens if my agency does not/cannot repay the Housing Fund loan by the required June 2015 or June 2016 deadline?

If the agency fails to repay the Housing Fund, the required allocation of tax increment to the Housing Fund is increased by 5% for as long as the project area continues to receive tax increment.

25. Do I have to pay interest on the use of our current year housing set-aside funds to make the SERAF payment?

No.

26. Can I borrow from accumulated balance in the Housing Fund to make the SERAF payment?

No. You may borrow up to 100% of the current year's payment to the Housing Fund but accumulated funds from past years may not be borrowed or used in any way for payments. (See #21 above.)

27. Can SERAF payments be made with bond proceeds?

Agencies in all cases should first consult with their bond counsel. But the general rule is, if the bonds are tax-exempt, you may not make SERAF payments with bond proceeds. If the bonds are taxable, you likely can use proceeds to make your SERAF payment. But each agency must consult with bond counsel to make a final determination.

28. What happens to redevelopment funds being accumulated in order to finance a longer-term project?

Under AB 26 4x, an agency must make its full required SERAF payments using any available funds, and that includes funds being accumulated in order to do a project.

29. If my agency pays on time, does the legislation authorize a one-year extension of our project area plan?

Yes. If an agency makes its full payment on time for the current fiscal year, FY 2009-2010, time limits on plans can be extended by one year. Extensions cannot be enacted until after the required payment has been made. This one year extension does not apply to the second year payment in FY 2010-11.

30. Do funds paid to SERAF count against my project area dollar cap?

Yes. Unlike previous ERAF shifts, AB 26 4x makes no provision for excluding payments from the limit on receipt of tax increment.

31. Should I include the SERAF payment in my annual Statement of Indebtedness?

Yes.

32. I am currently updating the Five-Year Implementation Plan. Given the pending litigation, how do I write the plan not knowing whether the SERAF payments will have to be made?

There is no one answer to this question and opinions will vary. CRA suggests that your agency develop its implementation plan based on the assumption that there will be no SERAF and then include a paragraph at the end stating that programs may have to be curtailed if and to the extent a SERAF take is imposed by the State.

Stanislaus County Redevelopment Agency

**Proposed Budget Fiscal Year
2009-2010**

Proposed Budget

- Anticipated Tax Increment Revenue =
\$5,400,000.00
 - \$1,350,000.00 – Housing Set-Aside Fund
 - \$4,050,000.00 – Redevelopment Fund

Budget Activities

1. Debt Service Obligations - \$1,332,853
2. Administrative Services - \$540,000
3. Housing Related Activities - \$616,384
4. Health & Safety Program - \$45,000
5. Neighborhood Clean-up - \$46,166
6. Economic Development - \$5,000
7. Estimated State SERAF - \$2,815,597

TOTAL = \$5,400,000.00

“Supplemental” Educational Revenue Augmentation Funds

- State budget authorizes a \$2.05 Billion shift of local redevelopment funds.
 - \$1.7 Billion in Fiscal Year 2009-2010
 - \$350 Million in Fiscal Year 2010-2011
 - Funds will be used to meet State’s Proposition 98 obligations to education.
- Estimated Impact to Stanislaus RDA
 - \$2,815,597 in Fiscal Year 2009-2010
 - \$579,682 in Fiscal Year 2010-2011

Budget Overview

- Agency expects sufficient funds will be available to cover Supplemental ERAF payment, in addition to covering debt obligations.
 - Allocations for larger infrastructure projects will not be available.
 - Agency will continue existing projects with previously allocated funds (including Keyes and Empire Storm Drain Project)

Recommendation

1. Adopt the Proposed Budget Fiscal Year 2009-2010 of \$5.4 Million.
2. Authorize the Agency's Executive Director to take all necessary steps to implement the Proposed Budget Fiscal Year 2009-2010 including the execution of contracts with the Housing Authority of the County of Stanislaus in excess of \$100,000, but not to exceed the allocated budget.