

## **AGENDA**

**STANISLAUS COUNTY REDEVELOPMENT AGENCY**

**1010 10TH STREET, BASEMENT LEVEL, MODESTO**

**SEPTEMBER 13, 2011**

**9:00 A.M.**

- I. CALL TO ORDER**
- II. CONSENT CALENDAR (Those items marked with an \*)**
- III. APPROVAL OF MINUTES**
  - \*A. Minutes of August 23, 2011
- IV. CORRESPONDENCE**
  - A. None
- V. PUBLIC HEARINGS**
  - A. None
- VI. AGENDA ITEMS**
  - A. Approval to Adopt the Proposed Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development
  - B. Approval to Enter Into a Reimbursement Agreement with Stanislaus County for Remittance Payments Made by the County under the 'Alternative Voluntary Redevelopment Program' (Voluntary Program) to the State of California in Accordance with AB X1 27
- VII. PUBLIC FORUM**
- VIII. ADJOURNMENT**

**MINUTES  
STANISLAUS COUNTY REDEVELOPMENT AGENCY  
AUGUST 23, 2011**

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

**I. CALL TO ORDER**

The meeting was called to order at 9:08 A.m.

Members present: William O'Brien, Vito Chiesa, Terry Withrow, Dick Monteith  
and Jim DeMartini

Members absent: None

Staff present: Kirk Ford, Executive Director and Angela Freitas, Manager  
IV

**II. CONSENT CALENDAR (\*)**

Upon motion by Agency members Chiesa/O'Brien (5-0), Agency approved the Consent Calendar, including approval of the minutes.

**III. APPROVAL OF MINUTES**

\*A. Upon motion by Agency members, Chiesa/O'Brien (5-0), the Agency approved the minutes of April 19, 2011.

**IV. CORRESPONDENCE**

A. None

**V. PUBLIC HEARINGS**

A. None

**VI. AGENDA ITEMS**

A. O'Brien/DeMartini (5-0) Adopted the proposed Enforceable Obligation Payment Schedule (EOPS) in compliance with AB 1X 26; and directed the Executive Director to take all action required by AB 1X 26 including, but not limited to, posting the EOPS on the Agency's website, and transmitting the EOPS to the County Auditor-Controller, the State Controller, and the State Department of Finance.

**VII. PUBLIC FORUM**

No one spoke.

**VIII. ADJOURNMENT**

The meeting adjourned at 9:18 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 # 9:00 a.m. - VI-A

Urgent

Routine

AGENDA DATE September 13, 2011

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development

STAFF RECOMMENDATIONS:

1. Find that use of the Housing Fund to pay planning and administrative expenses are necessary for the production, improvement or preservation of low- and moderate-income housing.
2. Find that the public infrastructure projects identified in the work program of the Fiscal Year 2011-2012 Final Budget are a benefit to the project area; that no other reasonable means of financing the improvements are available to the community; and that payment of Capital Project Funds for the cost of improvements will assist in the elimination of one or more blighting conditions inside the project area and is consistent with the Agency's Implementation Plan.

(Continued on page 2)

FISCAL IMPACT:

The Redevelopment Agency operates under two separately adopted budgets: the Agency's adopted programmatic budget and the County's operational budget. A programmatic budget, adopted by the Agency, is needed to comply with the California Redevelopment Law (CRL) and an operational budget, adopted by the County, is needed to allow the Agency to operate within the County finance structure. On June 7, 2011, the County's Adopted Proposed Budget Fiscal Year 2011-2012 was approved.

(Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2011-535

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

and approved by the following vote,

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

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.

**STAFF RECOMMENDATIONS: (Continued)**

3. Approve clarification of the policies within the existing Implementation Plan and approve the Residential Neighborhood Infrastructure Project List Rankings Criteria.
4. Adopt the Final Budget for Fiscal Year 2011-2012 inclusive of the Housing and Capital Projects Funds.
5. Authorize the Agency's Executive Director to take all necessary steps to implement the Final Budget for Fiscal Year 2011-2012 including the negotiation and execution of contracts for programs or projects identified in the budget work program, but not to exceed the allocated budget amount.

**FISCAL IMPACT: (Continued)**

Included in the County's approved spending plan for the fiscal year, was the Redevelopment Agency budget of \$10,783,277 and the Redevelopment Agency - Housing Set Aside budget of \$7,065,256. The Final Budget being proposed for adoption by the Agency refines the anticipated expenditures for the Housing and Capital Projects Funds based on the most current Gross Tax Increment projections. At this time, there are no recommended budget adjustments necessary to the County's budget in order for the Redevelopment Agency to meet its project goals and objectives for Fiscal Year 2011-2012.

It is estimated that the Redevelopment Agency will generate approximately \$6,968,652 in Gross Tax Increment (GTI) for Fiscal Year 2011-2012. Approximately \$4,390,251 of the GTI will be available to fund the Agency's Housing and Capital Projects Funds; \$1,742,163 and \$2,648,088 respectively. The remaining \$2,578,401 will be used for pass-through obligations. The Redevelopment Agency is fully funded from tax increment and does not rely on the County's General Fund. The Final Budget further anticipates the Agency's reimbursement of Stanislaus County in the amount of \$2,655,853 for remittance payments to be made in accordance with AB X1 27.

**DISCUSSION:**

The California Redevelopment Law (CRL) requires a redevelopment agency adopt an annual budget including all of the following:

1. The proposed expenditures of the agency.
2. The proposed indebtedness to be incurred by the agency.
3. The anticipated revenues of the agency.
4. The work program for the upcoming year, including goals.
5. An examination of the previous year's achievements and comparison of the achievements with the goals of the previous year's work program.

Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development

Page 3

The Stanislaus County Redevelopment Agency Project No. 1 (hereinafter "Project") was adopted in 1991 and is the Agency's only redevelopment project. The Project consists of fifteen (15) non-contiguous sub-areas totaling approximately 4,272 acres. Property tax increment generated by the Project is distributed into two funds: Housing and Capital Projects. The CRL requires an agency set-aside 20% of its Gross Tax Increment (GTI) to address affordable housing. The Agency has agreed to contribute 25% of its GTI to its Housing Fund. Pass-through obligations to affected taxing entities are subtracted from the remaining tax increment before distribution to the Capital Projects Fund.

The expenditures, indebtedness, anticipated revenues, and work program reflected in this budget are consistent with the Agency's 2010-2014 Implementation Plan (hereinafter "Plan"). The Plan is an Agency's guide to help eliminate blight by developing projects and programs which will benefit the Project Area. Blight conditions identified within the Project area include: incompatible land uses; deteriorated and/or dilapidated buildings; defective design and physical construction; shifting uses; inadequate light, ventilation, and open space; inadequate public improvements, facilities, and utilities; inadequate parking, drainage, and street improvements; inadequate sewer systems; inadequate transportation facilities; and lots of inadequate form or size. The Plan covers calendar years 2010 to 2014 and Fiscal Years 2010-2011 to 2014-2015.

The Agency's Fiscal Year 2011-2012 budget reflects the uncertainty surrounding the future of redevelopment agencies as a result of recent actions taken to balance the State's budget. On June 29, 2011, Governor Brown signed into law Assembly Bills (AB) X1 26 and X1 27. AB X1 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011 (Dissolution Act). AB X1 27 allows redevelopment agencies to avoid dissolution under the Dissolution Act by opting into an Alternative Voluntary Redevelopment Program (Voluntary Program) requiring specified substantial annual contribution to local schools and special districts. These annual contributions are to be made by a redevelopment agency's Sponsoring Community in the form of a remittance payment to the State of California. Stanislaus County is the Sponsoring Community for the Stanislaus County Redevelopment Agency.

On July 18, 2011, the California Redevelopment Association (CRA) and the League of California Cities (LOCC) filed a lawsuit with the California Supreme Court requesting that the Court declare unconstitutional AB X1 26 and AB X1 27. On August 11, 2011, the Court announced it would hear the lawsuit and issued a partial stay regarding suspension of the effectiveness of AB X1 26 and AB X1 27 until it rules on the constitutionality of the two bills. The partial stay of AB X1 26 keeps in effect Health and Safety Code Sections 34161-34167, which preclude redevelopment agencies from incurring new indebtedness, transferring assets, acquiring real property, entering into new contracts or modifying existing contracts and/or adopting or amending redevelopment plans.

Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development

Page 4

It is anticipated that the Court will make a decision before January 15, 2012, the date the first remittance payment is required to be made. As allowed by AB X1 27, any remittance payment made by the County on behalf of the Agency will be reimbursed by the Agency. The Agency's Fiscal Year 2011-2012 budget assumes reimbursement of the remittance payment to the County will be needed.

For Fiscal Year 2011-2012, the remittance payment will be in the amount of \$2,655,853. The Agency's ability to reimburse the Fiscal Year 2011-2012 payment is discussed in the anticipated revenue and proposed expenditures section below. The Agency will closely monitor revenues and expenditures throughout the year in an effort to ensure enough funds are available for reimbursement. If the Agency is unable at any time to reimburse the County, the Agency may be dissolved in accordance with AB X1 26 without the need for further remittance payment by the County.

Anticipated Revenue & Proposed Expenditures:

In light of the economic downturn, the 2010-2014 Plan projects a zero percent growth based on Fiscal Year 2010-2011 assessed valuations for the Project. (See Table One below)

**TABLE ONE: 2010-2014 IMPLEMENTATION PLAN TAX INCREMENT PROJECTIONS**

	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Housing Fund	\$1,742,163	\$1,742,163	\$1,742,163	\$1,742,163	\$1,742,163	\$8,710,815
Capital Projects Fund	\$2,648,088	\$2,648,088	\$2,648,088	\$2,648,088	\$2,003,487	\$12,595,839
<b>REVENUE TOTAL<sup>1</sup></b>	<b>\$4,390,251</b>	<b>\$4,390,251</b>	<b>\$4,390,251</b>	<b>\$4,390,251</b>	<b>\$3,745,650</b>	<b>\$21,306,654</b>
Pass Thru Payments	\$2,578,401	\$2,578,401	\$2,578,401	\$2,578,401	\$3,223,002	\$13,536,606
<b>Total Gross Tax Increment</b>	<b>\$6,968,652</b>	<b>\$6,968,652</b>	<b>\$6,968,652</b>	<b>\$6,968,652</b>	<b>\$6,968,652</b>	<b>\$34,843,260</b>

<sup>1</sup> The reduction in tax increment is attributed to escalating pass-through obligations taking effect in 2014

Consistent with the 2010-2014 Plan, the Agency's Fiscal Year 2010-2011 Adopted Final Budget anticipated receiving a total of \$6,968,652 in total Gross Tax Increment (GTI). The actual GTI received by the Agency for Fiscal Year 2010-2011 was \$7,722,898; approximately 10% more than projected. For Fiscal Year 2011-2012, the Agency is projecting a 3% reduction from the Fiscal Year 2010-2011 GTI based on available secured and unsecured assessed valuations for the Project. While the GTI projected for Fiscal Year 2011-2012 is greater than the amount projected in the Plan, Agency staff is proposing a conservative budget consistent with the \$6,968,652 GTI projection in the 2010-2014 Plan. Table Two below reflects the actual, projected, and proposed GTI revenue amounts:

**TABLE TWO: TAX INCREMENT ACTUALS, PROJECTIONS, AND PROPOSED**

	Adopted Agency Budget FY 2010-11	Actual Revenue FY 2010-11	Projected 3% Reduction FY 2011-12	Proposed Agency Budget FY 2011-12
Housing Fund	\$1,742,163	\$1,933,887	\$1,872,803	\$1,742,163
Capital Project Fund	\$2,648,088	\$2,862,592	\$2,771,748	\$2,648,088
Pass Thru Payments	\$2,578,401	\$2,926,419	\$2,846,660	\$2,578,401
<b>Gross Tax Increment</b>	<b>\$6,968,652</b>	<b>\$7,722,898</b>	<b>\$7,491,211</b>	<b>\$6,968,652</b>

Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development

Page 5

If actual GTI generated by the Agency exceeds the Final Budget, the net tax increment will be reserved for future reimbursement to the County for any remittance payment made to the State and/or applied to the 2011 Public Works Public Infrastructure Agreement.

The tables in Attachments "1" and "2" provide an overview of the revenues and expenditures being proposed for both the Housing and Capital Projects Funds as part of the Fiscal Year 2011-2012 Final Budget. The Final Budget considers a worse-case scenario with respect to the impact of AB X1 26 and 27. The scenario assumes AB X1 26 and 27 are both determined by the Courts to be constitutional and the Agency must reimburse the County for remittance payments made to the State. While this scenario allows the Agency to resume normal operations after the Court's determination is made, it greatly reduces the funding available for operations.

On July 1, 2011, the cash balance in the Housing Fund was \$9,767,664. As a result of AB X1 26 and 27 and the partial stay issued by the Supreme Court, the Agency has been unable to finalize the \$4,500,000 Housing Rehabilitation Agreement for Sewer-Hookups in the Airport and Parklawn neighborhoods authorized by the Agency Board on April 19, 2011. The proposed expenditures reflect finalization of the sewer-hook up agreement and continuation of affordable housing programs/projects.

On July 1, 2011, the cash balance in the Capital Projects Fund was \$7,037,514; however, \$6,013,108 of the balance is already encumbered under the 2011 Public Works Public Infrastructure Agreement. As such, the unencumbered cash balance in the Capital Projects Fund is \$1,024,406. Attachment "2" reflects the need for an additional \$1,135,997 in revenue in order to achieve a balanced budget. The need is a result of the AB X1 27 reimbursement payment. While the Agency anticipates a savings in projected program/project expenditures at the close of the 2011-2012 Fiscal Year, the savings are not likely to amount to a positive balance. As such, the Agency has two options for making the AB X1 27 reimbursement payment while maintaining a positive budget. Those options are as follow:

- As allowed by AB X1 27, the Agency may forgo funding of the Housing Fund in Fiscal Year 2011-2012 if no other funds are available to reimburse the County for remittance payments made to the State.
- The Agency may use a portion of the \$6,013,108 in net tax increment currently set-aside for the 2011 Public Work Public Infrastructure Agreement.

The proposed Housing Fund and Capital Project Fund budgets provide for either option in order to allow for the greatest flexibility. Staff will be working with the Agency's legal counsel to determine which of the two options is preferable.

Work Program:

This section provides an overview of the programs and projects to be undertaken and/or funded by the Agency during the 2011-2012 Fiscal Year, including the line-item dollar allocations. All proposed allocates are consistent with the Agency's 2010-2014 Plan. As discussed earlier, the Agency may also need to reimburse the County for remittance payments in the amount of \$2,655,853. Under the current Court issued stay for AB X1



Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development

Page 6

26 and 27 the Agency is restricted from undertaking many of the activities outlined in this work program; however, the Agency anticipates resuming normal operations once the Court makes a determination in January 2012.

**Affordable Housing:**

- Down Payment Assistance (DPA) Program:  
The Agency will continue the use of Housing Funds and other leveraged funds, such as HOME and CalHome grants, to provide down payment assistance to low- and moderate-income First Time Home Buyers (FTHB) purchasing single-family dwellings within the Project Area. This program will partner with the County's Neighborhood Stabilization Program and the Housing Authority of Stanislaus County. As in the past, all FTHB utilizing this program will be required to attend HUD accredited homebuyer counseling to get a better understanding of the home buyer process and consequently determine whether they have the financial means to purchase and maintain a home.  
**Fiscal Year 2011-2012 Budget: \$500,000**
- Housing Rehabilitation Program:  
The Agency will continue the use of Housing Funds and other leveraged funds, such as HOME and CalHome grants, to assist low- and moderate-income homeowners with housing rehabilitation of owner-occupied single-family dwellings. Rehabilitation efforts will include a focus on energy efficiency and weatherization as a means of reducing long-term energy costs for homeowners. The Agency will address issues of overcrowding by including room additions as part of the rehabilitation efforts. Universal design features will be incorporated as needed to address disability needs.  
**Fiscal Year 2011-2012 Budget: \$5,100,000** (The amount of funding for Fiscal Year 2011-2012 includes \$4,500,000 allocated to housing rehabilitation in conjunction with sewer infrastructure projects as authorized by the Redevelopment Agency Board on April 19, 2011 and \$600,000 allocated to general housing rehabilitation.)
- In-Fill Housing Acquisition, Rehabilitation, and Construction Program:  
In partnership with organizations, such as Habitat for Humanity and the Housing Authority of Stanislaus County, the Agency will continue to look for in-fill housing opportunities. In light of the current downturn in the housing market, the Agency will focus on opportunities to acquire unoccupied housing units, single- and multi-family, in need of substantial rehabilitation for re-sale, or rental, to low-, and moderate- income households. This program will be combined with the DPA program to facilitate first time home buyer opportunities for low- and moderate-income persons. The rehabilitation component of the program will include a focus on energy efficiency and weatherization as a means of reducing long-term energy costs. The Agency will utilize this program to address overcrowding and to assist the Housing Authority with rehabilitation of farm worker housing. The Agency will encourage the incorporation of universal design features as a step towards removing constraints towards housing for the disabled.  
**Fiscal Year 2011-2012 Budget: \$1,500,000**

**Public Infrastructure:**

- 2011 Public Works Public Infrastructure Agreement  
This agreement encompasses the following three public infrastructure projects identified separately in the Agency's 2010-2014 Plan:
  - Airport Neighborhood Sewer Project
  - Empire Storm Drain Project
  - Parklawn Neighborhood Sewer Project

These projects will be implemented under a "pay-as-you-go" agreement with the Stanislaus County Public Works Department for the design, engineering, and construction of public improvement (infrastructure) projects. The "pay-as-you-go" agreement allows use of up to \$32,000,000 in future Capital Project net tax increment to fund public improvement projects. As authorized in the Agency's Fiscal Year 2010-2011 budget, a total of \$6,013,108 in net tax increment has already been made available by the Agency under this agreement. None of the funding made available has been spent and Agency staff is working with County staff to establish a time frame/work plan for implementation of the public infrastructure projects authorized under the contract.

On August 23, 2011, the County Board of Supervisors adopted Residential Neighborhood Infrastructure Project Ranking Criteria. These criteria are consistent with the general guidelines adopted in the 2010-2014 Implementation Plan and are under consideration for approval by the Agency as part of this Final Budget adoption. (See Page 11 for further discussion.)

County staff is actively working with community groups to pursue possible funding through the California State Water Board's Cleanup and Abatement Account Program for both sewer projects. The State Water Board's funding may be limited to covering costs for design, planning, and engineering and does not cover construction costs. In Fiscal Year 2011-2012, the Agency will continue to work with Stanislaus County and City of Modesto to ensure all necessary steps, including Section 33445 findings as required by State Redevelopment Law, a Measure M vote for the Airport sewer, and any necessary LAFCO approvals, are being taken to keep the projects moving forward.

**Fiscal Year 2011-2012 Budget: To Be Determined** (The amount of funding for Fiscal Year 2011-2012 may increase or decrease depending on the actual amount of unencumbered net tax increment available to the Agency at the close of Fiscal Year 2011-2012.)

**Other:**

- Neighborhood Clean-Up Program:  
This program will focus on area wide revitalization efforts, which may include, targeting the clean-up of public/common areas, such as streets, alleys, and parks. Activities will include, but not be limited to trash pick-up, graffiti abatement, and landscape enhancement. The program will shift away from the collection of trash from private property as a result of twice a year bulky item pick-up service now being provided to each property as part of their normal trash

Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development

Page 8

service. Implementation of clean-up events will be community driven and may be dependent on the community's participation in a revitalization strategy. The Agency will rely on areas with a Municipal Advisory Council (MAC) or an organized community group (if no MAC exists to represent the area) and community volunteers to plan and implement events with guidance and funding provided by Agency staff.

**Fiscal Year 2011-2012 Budget: \$5,000**

- Economic Development:

The Agency will continue to respond to requests for economic development assistance by assessing requests for consistency with the Project and presenting requests to the Redevelopment Agency Board for consideration. Agency staff will also explore the development of programs, such as commercial property rehabilitation, by developing program criteria and standards to be presented to the Redevelopment Agency for consideration.

**Fiscal Year 2011-2012 Budget: \$100,000**

- Public Infrastructure Rehabilitation/Construction:

The Agency will continue to respond to requests for public infrastructure facility rehabilitation/reconstruction assistance consistent with the Project.

**Fiscal Year 2011-2012 Budget: \$10,000**

- Emergency Septic Repair & Sewer Connection Program:

The Agency will continue to assist very-low, low-, and moderate-income property owners within the Project Area with emergency sewer (septic system) repairs. Funds for connections to existing and planned public sewer infrastructure will also be made available.

**Fiscal Year 2011-2012 Budget: \$100,000**

- Administration:

In addition to normal administrative tasks, the following projects will be undertaken by Agency staff as part of their administrative duties during this Fiscal Year:

- *Revitalization Strategy*

The Agency will partner with the Community Development Block Grant program to develop community revitalization strategies intended to economically empower low-income residents by obtaining commitments to develop their neighborhood in a manner that will attract business investment, and generate neighbor activities that will ensure benefits within their community. Revitalization strategies encourage resident-based initiatives for housing, economic development, and human service needs. The goal is to align the strategies with the goals and policies of the Project in an effort to better facilitate the elimination of blight from the Project Area.

- *Northern Shackelford Sub-area Annexation*  
The Agency will continue coordination efforts with the City of Modesto on annexation of the northern Shackelford sub-area.
  
- *Assessment District Survey (\$25,000)*  
Stanislaus County recently entered into a Settlement Agreement with the Plaintiffs in the *Committee Concerning Community Improvement, et al. v. City of Modesto, et al.* lawsuit. The Agency was not a party to the lawsuit, but Agency activities and expenditures related to residential neighborhood infrastructure were a key area of contention. Because of this, RDA staff was involved in the settlement discussions and the settlement agreement includes actions required of the Agency. The Agency was intending, as part of the implementation of the Airport and Parklawn Neighborhood sewer projects, to conduct a survey of residents and landowners to determine whether the neighborhoods would support formation of an assessment district for the funding of infrastructure. The Settlement Agreement requires that the County pay \$25,000 to California Rural Legal Assistance (CRLA) for a professionally done survey rather than rely on Agency staff to conduct the survey. Because the survey was to be an integral part of the Agency activities associated with implementing the Parklawn and Airport neighborhood projects, Agency staff agreed to help pay for the County's obligation.

Administrative costs also include legal services provided by an outside counsel and yearly property tax allocation charges paid to the County Auditor-Controller. Historically, the Agency has charged all administrative costs to the Capital Projects Fund as a means of maximizing the funds available to provide affordable housing. This budget proposes up to \$150,000 of administrative costs being charged directly to the Housing Fund to cover costs associated with the processing and monitoring of housing activities.

**Fiscal Year 2011-2012 Budget: \$ 750,000**

- Debt Service:

The following is an overview of the Agency's debt service obligations for Fiscal Year 2011-2012:

- a. State Water Board Loan/Brete Harte Sewer – balance owed: \$895,754. Final payment due in 2015.
- b. United States Department of Agriculture Loan/Salida Storm Drain – balance owed: \$7,675,613. Final payment due in 2041.
- c. Tax Allocation Bond/Keyes Storm Drain – balance owed: \$24,662,109. Final payment due in 2036.
- d. 2011 Public Works Public Infrastructure Agreement – future net tax increment balance owed: \$25,986,892.
- e. AB X1 27 Remittance Payment Reimbursement – Fiscal Year 2011-2012 payment amount: \$2,655,853

**Fiscal Year 2011-2012 Budget: \$4,243,775** (This figure does not include the amount for the 2011 Public Work's agreement which is discussed above under Public Infrastructure.)

Indebtedness:

The Fiscal Year 2011-2012 Final Budget does not propose any increases to the Agency's debt. The Agency's overall debt will be reduced in Fiscal Year 2011-2012 as a result of payments made on existing debt service.

Project Goals and Objectives:

The programs and projects identified in this budget for Fiscal Year 2011-2012 will serve to implement the following goals and objectives of the Project:

- The conservation, rehabilitation and community development of the Project Area, especially residential neighborhoods in accordance with the General Plan, Community Plans, Specific Plans, and local codes and ordinances.
- The achievement of an environment reflecting a higher level of concern for architectural landscape and urban design and land use principles.
- The elimination or reduction of certain environmental deficiencies, including substandard vehicular circulation and parking systems, inadequate water, nonexistent sewer and storm drainage systems, and other similar public and private improvements, facilities and utilities deficiencies.
- The promotion and investment in rehabilitation and improvement programs for existing housing with the intent and purpose of enhancing the tenure and condition of the structures and properties.
- The promotion of new investment in housing opportunities for low- and moderate-income households in the unincorporated communities of Stanislaus County as suggested by the Economic Strategic Plan and required by the Housing Element of the General Plan.
- The control of unplanned growth by guiding revitalization, rehabilitation, and new development activities in such fashion as to meet the needs of the Project Area, balancing jobs and housing to reduce future urban congestion in Stanislaus County, improving land utilization and the quality of life for County residents.
- The reduction of the County's annual costs for the provision of local services.
- The provision for increased sales taxes and revenues to Stanislaus County.
- The promotion of new and continuing private sector investment to provide commercial activity and to prevent the loss of and to facilitate the recapture of commercial sales activity.
- The retention and enhancement of as many existing businesses as possible by means of community redevelopment and rehabilitation activities and by encouraging and assisting the cooperation and participation of owners, businesses, and public agencies.

Fiscal Year 2010-2011 Overview:

For Fiscal Year 2010-2011, the Project generated \$7,722,898 in gross tax increment; 10% more than projected in the Agency's Adopted Final Budget. The Agency's debt payment obligations for Fiscal Year 2010-2011 included a \$580,227 payment to the State of California Supplemental Educational Revenue Augmentation Funds (SERAF). This was the second of two payments totaling \$3,395,297. As a result of the need to make these payments over the last two years and on-going efforts at the State level to extract more money from redevelopment agencies, the Agency has been very

## Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development

Page 11

conservative in its use of funds. The following is an overview of the programs and projects undertaken by the Agency in Fiscal Year 2010-2011:

### **Affordable Housing:**

- Five (5) Down Payment Assistance loans totaling approximately \$109,700 were provided to low- and moderate-income First Time Home Buyers.
- Habitat for Humanity expended approximately \$85,700 of their contracted funds to undertake rehabilitation and reconstruction projects in the Airport sub-area.

### **Public Infrastructure:**

- Monterey Park Tract Water Study – The Agency paid out \$40,000 in match funds to conduct a planning study to evaluate the feasibility of alternative water sources in the Monterey Park Tract sub-area. The Agency's match obligation has been met.
- Keyes Storm Drainage Infrastructure Project – The project was completed in January of 2011.
- Empire Storm Drain Project – Phase 1A of the project was completed in January of 2011.

### **Others:**

- Neighborhood Clean-Ups – The Agency, in partnership with the City of Modesto, contributed \$4,200 to the Airport sub-area as part of a neighborhood beautification event in September 2011.

Activities undertaken during Fiscal Year 2010-2011 essentially served to implement the same goals and objectives identified earlier in this budget for the Fiscal Year 2011-2012 work program.

### **Residential Neighborhood Infrastructure Project List Rankings Criteria:**

In order to assist in the prioritization of limited redevelopment and block grant funding as it becomes available, in September 2010 Agency staff and representatives from the County Chief Executive Office, Environmental Resources, Parks and Recreation, Planning and Community Development and Public Works met to develop a proposed project list rankings criteria. Staff discussed the need to focus future funding towards addressing public health issues related to septic systems and water supply.

Funding for areas such as storm drain, sidewalks, curb, gutter and street lighting would not be a priority unless special grants were received that could only be used for those dedicated purposes. Pending projects, such as the Empire Storm Drain project, will proceed as programmed, and are not affected by the ranking criteria.

Approval to Adopt the Final Budget for Fiscal Year 2011-2012 and Approval of Criteria for Infrastructure Project Development  
Page 12

A general description of the proposed Project Listing Ranking Criteria was included in the Stanislaus County's Redevelopment Agency's 2011-2014 Implementation Plan which was approved by the Redevelopment Agency on October 19, 2010. Specifically, the Implementation Plan language as approved by the Agency included the following:

"The implementation of this Plan is contingent on the availability of adequate funding. In order to consider projects for funding a number of factors need to be taken into consideration. These factors include, but may not be limited to, the following:

- a. Health and safety needs of the program/project and how those needs compare with the needs of other programs/projects. (i.e., high per capita septic system failures).
- b. The willingness and ability of the local community to assess themselves for purposes of contributing towards project costs and costs of ongoing maintenance and operation of improvements inclusive of support of the program/project by the area's Municipal Advisory Council (MAC) or an organized community group (if no MAC exists to represent the area).
- c. Identified and available funding sources for the specific program/project (the ability to leverage local agency dollars with outside funding sources are critical to ensuring a successful program/project).
- d. For public infrastructure improvement projects:
  - 1) A working partnership between service provider(s), the local community, and the Agency,
  - 2) The availability of engineered designs and a cost analysis for the project,
  - 3) The willingness/ability of the service provider(s) to consider annexation of the improvements to be made."

Over the past year, Agency and County staff have been working closely with County Counsel, the California Rural Legal Assistance (CRLA) and Attorneys associated with the "*The Committee Concerning Community Improvement, et al. vs. City of Modesto, et al.*" litigation, to further fine tune the rankings criteria. The proposed "Residential Neighborhood Infrastructure Project List Rankings Criteria" (Attachment 3) reflects the final work product recommended by that group, and is consistent with the factors approved by the Redevelopment Agency in October 2010.

The Agency has been requested as part of the County's Settlement Agreement to adopt these criteria. The County Board of Supervisors adopted them on August 23, 2011.

Because of the current stay that has been issued by the State Supreme Court in relation to the lawsuit affecting the validity of AB X1 26 and AB X1 27, the Agency is prohibited from amending the existing Implementation Plan, among other things, but is not prohibited from approving the criteria as a clarification of the existing policies and criteria within the existing Implementation Plan. As such, as part of the Final Budget adoption, staff is requesting that the Agency clarify the policies within the existing Implementation Plan and formally approve the Residential Neighborhood Infrastructure Project List Rankings Criteria.

**POLICY ISSUES:**

The Agency's budget is a key component to implementing the goals and objectives of Project No. 1 and the programs and project outlined in the Agency's 2010-2014 Implementation Plan. Traditionally, the efforts of the Stanislaus County Redevelopment Agency fall within the Board's Priorities of A Well Planned Infrastructure System, A Healthy Community, and Effective Partnerships by implementing or constructing programs and projects that primarily are designed to eliminate blighted conditions in established redevelopment areas.

**STAFFING IMPACTS:**

The Stanislaus County Department of Planning and Community Department provides staffing services to the Redevelopment Agency. The Department is compensated by the Agency for all services provided. No additional staff is requested as part of the Final Budget for Fiscal Year 2011-2012.

**CONTACT PERSON:**

Kirk Ford, Redevelopment Agency Executive Director. Telephone: (209) 525-6330

**ATTACHMENTS:**

1. Fiscal Year 2011-2012 Housing Fund
2. Fiscal Year 2011-2012 Capital Project Fund
3. Residential Neighborhood Infrastructure Project List Rankings Criteria



**Attachment No. 1**  
**Fiscal Year 2011-2012 Final Budget**  
**Housing Fund**

<b>REVENUES</b>		<b>Proposed</b>
Beginning Balance		\$9,767,664
25% Housing Set-Aside <sup>1</sup>		\$1,742,163
Miscellaneous Revenue		\$150,000
<b>REVENUE TOTAL</b>		<b>\$11,659,827</b>
<b>EXPENDITURES</b>		<b>Proposed</b>
<b>DEBT SERVICE</b>		
Bret Hart		\$179,151
<b>PROGRAMS/PROJECTS</b>		
Administration		\$150,000
Down Payment Assistance		\$500,000
Housing Rehabilitation <sup>2</sup>		\$5,100,000
Housing In-fill		\$1,500,000
<b>EXPENDITURE TOTAL</b>		<b>\$7,429,151</b>
<b>BALANCE AVAILABLE</b>		<b>\$4,230,676</b>

<sup>1</sup> As allowed by AB X1 27, the Agency may forgo funding of the Housing Fund in Fiscal Year 2011-2012 if no other funds are available to reimburse the County for remittance payments made to the State

<sup>2</sup> \$4,500,000 allocated to housing rehabilitation in conjunction with sewer infrastructure projects as authorized by the Redevelopment Agency Board on April 19, 2011 and \$600,000 allocated to general housing rehabilitation.

**Attachment No. 2**  
**Fiscal Year 2011-2012 Final Budget**  
**Capital Project Fund**

<b>REVENUES</b>	<b>Proposed</b>
Beginning Balance	\$1,024,406
Tax Increment	\$2,648,088
Miscellaneous Revenue	\$71,133
AB X1 27 Adjustment (Housing Set-Aside Funds or 2011 Public Works Infrastructure Agreement Fund Balance Shift ) <sup>1</sup>	\$1,135,997
<b>REVENUE TOTAL</b>	<b>\$4,879,624</b>
<b>EXPENDITURES</b>	<b>Proposed</b>
<b>DEBT SERVICE</b>	
Bond - Keyes Storm Drain	\$1,165,271
USDA - Salida Boulevard Drain	\$243,500
AB X1 27 Remittance Payment Reimbursement	\$2,655,853
<b>PROJECT/PROGRAM</b>	
Administration	\$600,000
2011 Public Works Infrastructure Project Agreement	See Note No. 2
Neighborhood Clean-up	\$5,000
Economic Development	\$100,000
Public Infrastructure Rehab/Reconstruct	\$10,000
Emergency Septic Repair /Sewer Connection	\$100,000
<b>EXPENDITURE TOTAL</b>	<b>\$4,879,624</b>
<b>BALANCE AVAILABLE</b> <sup>2</sup>	<b>\$0</b>

<sup>1</sup> As allowed by AB X1 27, the Agency may forgo funding of the Housing Fund in Fiscal Year 2011-2012 if no other funds are available to reimburse the County for remittance payments made to the State or the Agency may use a portion of the \$6,013,108 in net tax increment currently set-aside for the 2011 Public Work Public Infrastructure Agreement to reimburse the County.

<sup>2</sup> Public Infrastructure Project Design, Engineering, and Construction as authorized by the Redevelopment Agency Board on April 19, 2011. Funding for this agreement is dependent on the actual amount of unencumbered net tax increment available to the Agency at the close of Fiscal Year 2011-2012.

# RESIDENTIAL NEIGHBORHOOD INFRASTRUCTURE PROJECT LIST RANKINGS CRITERIA

Page 1

Stanislaus County and the Stanislaus County Redevelopment Agency (collectively "County") have few sources of funding available to construct major infrastructure projects in the unincorporated areas of the County. Currently, through the life of the Redevelopment Agency there are not, nor will there be, adequate funds to plan for or pay for all sewer, storm drainage, sidewalk, curb, gutter, street improvement or lighting projects that the communities may desire.

Redevelopment Agency funds may only be spent in the Redevelopment areas. The Redevelopment Project Area includes 15 separate subareas, all of which were originally selected because of existing blight. Most, if not all, of the Redevelopment Project subareas include residential neighborhoods that can be classified as "lower income" or 120% of the Annual Median Income or less. Community Development Block Grant (CDBG) funds can only be used pursuant to stringent federal guidelines and must be spent within 2 ½ years of funding. Projects that use CDBG funds are limited to those that will serve a population whose income is similarly classified at 120% of the AMI or less. As such, both RDA and CDBG funded infrastructure projects will primarily serve "lower income" communities.

The following criteria will be used by the County of Stanislaus and the Stanislaus County Redevelopment Agency for determining the priority of future infrastructure spending projects beyond those that have already been programmed in either the adopted CDBG Consolidated Action Plan or the adopted 2010-2014 Redevelopment Agency Implementation Plan .

## 1. PUBLIC HEALTH

- Public health and safety needs will be the primary criteria for selecting projects. The County and the Agency will evaluate programs/projects and how those needs compare with the needs of other programs/projects. (i.e., high per capita septic system failures). Installation of sewer mainlines and potable water systems will be the first priority. Storm drainage can be considered a second priority in areas subject to persistent standing water problems.
- In areas currently served by individual septic systems, prior to initiation of a sewer infrastructure project one or more of the following criteria apply:
  - There is a relatively high occurrence of septic system failures per capita or in relation to total number of parcels in a neighborhood
  - Septic system alternatives will not work or are not cost effective (Engineered Systems)
  - Soil Types preclude engineered systems
  - Population Density is consistent with County or City residential zoning district densities.
  - Parcel Sizes are considered to small for standard septic systems
- Water Supply projects will only be considered in areas where the existing infrastructure or water quality is inadequate to serve the existing population. The first priority for water supply projects will be for those areas where:
  - Drinking water does not meet Primary Water Standards as defined by the California Department of Public Health.

**2. COMMUNITY SUPPORT**

For all projects considered for funding by the County, the willingness of the local community to assess themselves for purposes of contributing towards project costs and costs of ongoing maintenance and operation of improvements is very important. No specific financial threshold of Community participation is required, but rather, each project will be evaluated on a case-by-case basis as to what level of financial cooperation is required from the Community. There must be adequate community support for the project. As a part of assessing community support:

- a. The County will pursue the formation of an assessment district, including necessary engineering studies, if it is presented with a petition signed by 51% of the property owners in the affected community.
- b. The County will investigate formation of an assessment district if it is presented with a petition signed by 10% of the residents of the affected community. The County will conduct a survey designed to assess the likelihood of a successful vote on the formation of an assessment district. County will pursue formation of an assessment district, including any necessary engineering or CEQA studies, if the survey indicates that an eventual vote on the formation of an assessment district would be likely to succeed.
- c. County will continue to work with residents and local stakeholders (advocacy organizations, MACs, etc.) to conduct outreach and education

**3. FUNDING.**

- o Projects may be afforded priority if there is an additional opportunity to leverage Private and/or Public Grant Funding or other funds to assist in capital improvement costs
- o Projects may be afforded priority if there are opportunities to use Property Tax / Sales Tax dollars to assist in capital improvement costs
- o The County will work with the Community and the service provider(s) to evaluate potentials for outside grant and loan funding, and apply for funding if appropriate.

**4. GEOGRAPHIC AND FISCAL EQUITY**

- o Projects should be located spread equitably throughout the various communities, and serve the most number of income-qualified residents.
- o Projects may be afforded priority if they show a low cost per capita.
- o Sewer projects may be afforded priority if they are located proximal to an existing public sewer line.

**ADDITIONAL REQUIREMENTS**

- 1. The County is not a provider of water or sewer services, therefore, there must be a utility provider/ purveyor who supports the project and can and will serve the project area. If required for service, the provider must show the willingness and ability to annex the project area into its service area boundary. The County will request that

**RESIDENTIAL NEIGHBORHOOD INFRASTRUCTURE PROJECT LIST RANKINGS**  
**CRITERIA**

**Page 3**

each potential provider confirm its compliance with Government Code section 65589.7(a) in that it grants a priority for the provision of services to proposed developments that include housing units affordable to lower income households and that it has complied with Government Code section 65589.7(b) in that it has adopted policies and procedures consistent with the section. The County also will request a copy of the policies and procedures.

2. Underground improvements such as sewer are installed first. Sidewalks and pedestrian facilities are installed only after all underground infrastructure is installed (water, sewer, storm drain)
3. Nothing in this list will preclude the County or the Redevelopment Agency from allocating, programming, and spending funds for other non-infrastructure programs and projects as defined in approved Action Plans or Implementation Plans.
4. Adequate funding must be available to plan, engineer and construct the project, and the project has been programmed, if necessary, in the appropriate Consolidated Action Plan or Implementation Plan of the funding agency.

# Stanislaus County Redevelopment Agency

Fiscal Year 2011–2012 Budget

# BUDGET DEVELOPMENT

FISCAL YEAR 2011-2012

- ▶ Impacted by the June 28, 2011 enactment of Assembly Bills (AB) x1 26 & x1 27.
  - AB x1 26 “Dissolution Act”
  - AB x1 27 “Alternative Voluntary Redevelopment Act Program”
  - Validity of AB x1 26 & 26 has been challenged.
  - August 11, 2011 California Supreme Court issued partial stay.

# COURT ORDERED STAY

## ACTIONS REQUIRED

- ▶ Actions are not required; however, it is unclear how the Court will address the specific time frames called out for in both bills, if the bills are upheld.
  - Agency's legal counsel is recommending the Agency and the County take actions as required by AB x1 26 and 27, contingent on the Court's ultimate decision.
- ▶ Court decision anticipated January, 2012.



# BUDGET DEVELOPMENT

FISCAL YEAR 2011-2012

## ▶ Assumption:

- AB x1 26 & 27 will be upheld by the Court and the Agency will continue to operate under AB x1 27 with reimbursement to Stanislaus County for remittance payments made to the State of California.
- Fiscal Year 2011-2012 remittance payment: \$2,655,853

# BUDGET OVERVIEW

FISCAL YEAR 2011-2012

- ▶ **Projected Gross Tax Increment (GTI):**
  - \$7,491,211
    - 3% reduction in actual Fiscal Year 2010-2011 revenue: \$7,722,898
- ▶ **Proposed Agency Budget:**
  - \$6,968,652
    - \$1,742,163 – Housing Fund (25%)
    - \$2,648,088 – Capital Project Fund
    - \$2,578,401 – Pass Thru Payments

# HOUSING FUND

## FISCAL YEAR 2011–2012 BUDGET OVERVIEW

- ▶ Cash Balance: \$9,767,664
  - Revenues: \$1,892,163
  - Expenditures: \$7,429,151
    - Bret Harte Sewer Infrastructure Loan
    - Down Payment Assistance
    - Housing In-Fill
    - Housing Rehabilitation
      - \$4,500,000 sewer hook-up agreement
    - Administration

# CAPITAL PROJECT FUND

## FISCAL YEAR 2011-2012 BUDGET OVERVIEW

- ▶ Cash Balance: \$1,024,406
  - Revenues: \$3,855,218
    - AB x1 27 adjustment: \$1,135,995  
(Housing Set Aside or 2011 Public Works Infrastructure Agreement Funds)

# CAPITAL PROJECT FUND

## FISCAL YEAR 2011-2012 BUDGET OVERVIEW

- Expenditures: \$4,879,624
  - Keyes Storm Drain Bond
  - Salida USDA Loan
  - AB x1 27 Reimbursement
  - Neighborhood Clean-up
  - Economic Development
  - Public Infrastructure Rehab/Reconstruct
  - Emergency Septic Repair/Sewer Connection
  - Administration
  - 2011 Public Works Infrastructure Agreement

# PROJECT DEVELOPMENT CRITERIA

## CLARIFICATION

- ▶ Residential Neighborhood Infrastructure Project List Ranking Criteria (*Attachment 3*)
  - Consistent with criteria adopted as part of Agency's 2011–2014 Implementation Plan.
  - Developed as part of settlement agreement and adopted by the County Board of Supervisors on August 23, 2011.

# STAFF RECOMMENDATION

## FISCAL YEAR 2011–2012 BUDGET

- ▶ Approve the adoption of the final budget for Fiscal Year 2011–2012 and approve the criteria for infrastructure project development by taking actions 1–5 listed under Staff Recommendations.

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

DEPT: Redevelopment Agency *Ward*

BOARD AGENDA # 9:00 a.m. - VI-B

Urgent  Routine

AGENDA DATE September 13, 2011

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Enter Into a Reimbursement Agreement with Stanislaus County for Remittance Payments Made by the County under the Alternative Voluntary Redevelopment Program (Voluntary Program) to the State of California in Accordance with AB X1 27

STAFF RECOMMENDATIONS:

Authorize the Executive Director to enter into an agreement with Stanislaus County for reimbursement of State of California remittance payments made by the County under the Alternative Voluntary Redevelopment Program in accordance with AB X1 27.

FISCAL IMPACT:

AB X1 27 authorizes redevelopment agencies to reimburse their Sponsoring Community for remittance payments made to the State of California under the Alternative Voluntary Redevelopment Program. The initial remittance payment for Fiscal Year 2011-2012 is \$2,655,853 and the payment for Fiscal Year 2012-2013 is estimated to be approximately \$631,800. Subsequent payments are estimated to be initially slightly less than the Fiscal Year 2012-2013 payment and annually reducing in proportion to the Agency's  
(Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2011-536

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow  
and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.



Approval to Enter Into a Reimbursement Agreement with Stanislaus County for Remittance Payments Made by the County under the Alternative Voluntary Redevelopment Program (Voluntary Program) to the State of California in Accordance with AB X1 27

Page 2

### **FISCAL IMPACT: (Continued)**

debt service. The Agency has already submitted to the State of California over the last two years payments totaling \$3,395,797 all funded from the Agency's Capital Projects Fund. If the Agency is unable at any time to reimburse the County, the Agency may be dissolved in accordance with AB X1 26, without the need for further remittance payment by the County. There will be no fiscal impact to the County General Fund, as all payments will be made from Redevelopment Agency Tax Increment.

### **DISCUSSION:**

On June 29, 2011, Governor Brown signed into law Assembly Bill (AB) X1 26 and X1 27. AB X1 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011 (Dissolution Act). AB X1 27 allows redevelopment agencies to avoid dissolution under the Dissolution Act by opting into an Alternative Voluntary Redevelopment Program (Voluntary Program) requiring specified substantial annual contribution to local schools and special districts. These annual contributions are to be made by a redevelopment agency's Sponsoring Community in the form of a remittance payment to the State of California. Stanislaus County is the Sponsoring Community for the Stanislaus County Redevelopment Agency.

On July 18, 2011, the California Redevelopment Association (CRA) and the League of California Cities (LOCC) filed a lawsuit with the California Supreme Court requesting that the Court declare unconstitutional AB X1 26 and AB X1 27. On August 11, 2011, the Court announced it would hear the lawsuit and issued a partial stay regarding suspension of the effectiveness of AB X1 26 and AB X1 27 until it rules on the constitutionality of the two bills. The partial stay of AB X1 26 keeps in effect Health and Safety Code Sections 34161-34167, which preclude redevelopment agencies from incurring new indebtedness, transferring assets, acquiring real property, entering into new contracts or modifying existing contracts and/or adopting or amending redevelopment plans.

Under the stay, actions in accordance with AB X1 27 are not required; however, it is unclear how the Court will address the specific time frames called out for in both AB X1 26 and 27 if the bills are held to be constitutional. AB X1 27 allows redevelopment agencies to avoid dissolution under AB X1 26, if the Sponsoring Community enacts an ordinance by October 1, 2011, in which it agrees to comply with the Voluntary Program by making the remittance payment. The Sponsoring Community has until November 1, 2011 to enact the ordinance if by October 1, 2011 it adopts a non-binding resolution of intent to adopt an ordinance.

Approval to Enter Into a Reimbursement Agreement with Stanislaus County for Remittance Payments Made by the County under the Alternative Voluntary Redevelopment Program (Voluntary Program) to the State of California in Accordance with AB X1 27

Page 3

As such, the Stanislaus County Redevelopment Agency's legal counsel is recommending the Agency and the County take actions as required by AB X1 26 and 27, contingent on the Court's ultimate determination. On the same day this item is considered, the County will be considering adoption of the non-binding resolution and ordinance necessary to keep the Agency from dissolving. Any action by the County to make the necessary remittance payments to the State will be contingent on the Agency's ability to reimburse the County for the payments.

The Agency's Fiscal Year 2011-2012 Final Budget, also being considered on the same day as this item, anticipates the Agency having adequate funds to reimburse the County for the payments. For Fiscal Year 2011-2012, the Agency has the following two options available for making the AB X1 27 reimbursement payment of \$2,655,853 while maintaining a positive budget:

- As allowed by AB X1 27, the Agency may forgo funding of the Housing Fund in Fiscal Year 2011-2012 if no other funds are available to reimburse the County for remittance payments made to the State.
- The Agency may use a portion of the \$6,013,108 in net tax increment currently set aside for the 2011 Public Works Public Infrastructure Agreement.

AB X1 27 requires that remittance payments be made for the remaining 32-year life of the Agency. The payment for Fiscal Year 2012-2013 is estimated to be approximately \$631,800. Subsequent remittance payments are estimated to be initially slightly less than the Fiscal Year 2012-2013 payment and annually reducing in proportion to the Agency's debt service. The preliminary revenue/expenditure projections prepared by the Agency indicate the Agency will be able to reimburse the County in Fiscal Years 2011-2012 and 2012-2013. In Fiscal Year 2013-2014, however, the Agency's pass-through payment obligations increase and if the gross tax increment received by the Agency remains flat or decreases, it is likely the Agency will be unable to fully reimburse the County.

The draft agreement with the County provides for two options if the Agency is unable to fully reimburse the County in any one Fiscal Year. Option one: the Agency dissolves in accordance with AB X1 26 and the County has no further obligation. Option two: the County may agree to make a remittance payment without immediate reimbursement from the Agency, if the Agency can show it will be able to fully reimburse the County in subsequent years. Option two is completely dependent on the County's willingness and ability to wait for reimbursement. This option could impact the County General Fund, but the County is not obligated to wait for reimbursement, and may charge the Agency interest.

Approving the action requested in this item positions the Agency to remain active for at least one to two years while the Courts and the State legislature decide the future of

Approval to Enter Into a Reimbursement Agreement with Stanislaus County for Remittance Payments Made by the County under the Alternative Voluntary Redevelopment Program (Voluntary Program) to the State of California in Accordance with AB X1 27

Page 4

redevelopment agencies. If the bills are found to be constitutional, failure to take the requested actions leaves the County and the Agency dependent on the Court's interpretation/action relating to the timelines in both bills. If the bills are found to be unconstitutional, the actions being requested will be set-aside and Agency activities will continue as authorized under the California Redevelopment Law.

**POLICY ISSUES:**

Traditionally, the efforts of the Redevelopment Agency fall within the Board's Priorities of A Well Planned Infrastructure System, A Healthy Community, and Effective Partnerships. Approval of the reimbursement agreement furthers the Board's priorities by allowing the Agency to continue to operate.

**STAFFING IMPACTS:**

There are no staffing impacts associated with this item.

**CONTACT PERSON:**

Kirk Ford, Redevelopment Agency Executive Director. Telephone: (209) 525-6330

**ATTACHMENTS:**

1. Draft Agreement with Stanislaus County for reimbursement of remittance payment.

REMITTANCE AGREEMENT  
BETWEEN STANISLAUS COUNTY AND THE STANISLAUS COUNTY  
REDEVELOPMENT AGENCY

(California Health and Safety Code § 34194.2)

THIS REMITTANCE AGREEMENT (“Agreement”), is entered into this \_\_\_ day of \_\_\_\_\_, 2011, by and between Stanislaus County, (hereinafter referred to as “County”), and the Stanislaus County Redevelopment Agency (hereinafter referred to as “Agency”).

**RECITALS**

The County and the Agency (collectively, the “Parties” and individually, a “Party”) enter into this Agreement with reference to the following circumstances:

**WHEREAS**, Assembly Bill x1 27 (“AB 27”) was passed by the State Legislature on June 15, 2011, and signed by the Governor on June 28, 2011; and

**WHEREAS**, upon enactment, AB 27 codified Part 1.9 of Division 24 of the California Health and Safety Code, commencing with section 34192 (“Part 1.9”) which establishes a “voluntary alternative redevelopment program,” whereby the County may choose to continue the operation of the Agency upon the enactment of an ordinance by the County to comply with the provisions of Part 1.9, and to make certain remittances described in California Health and Safety Code Section<sup>1</sup> 34194 to the Stanislaus County Auditor-Controller (“County Auditor”); and

**WHEREAS**, the Board of Supervisors of the County of Stanislaus (“Board”) has adopted or, concurrently with this Agreement, is adopting, an ordinance to comply with Part 1.9 (“Ordinance”); and

**WHEREAS**, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et. al. v. Ana Matosantos, et. al.*, Case No. 5194861), challenging the validity of AB 26 and AB 27 on behalf of cities, counties, and redevelopment agencies, and requesting a stay of enforcement; and

**WHEREAS**, on August 11, 2011, the California Supreme Court (“Court”) issued a partial stay of the effectiveness of AB 26 and AB 27, until the Court can rule on the validity of the two bills, which stay was further modified by the Court on August 17, 2011 (collectively, the “stay”); and

---

<sup>1</sup> All section references in this Agreement are to the California Health and Safety Code, unless otherwise specified.

**WHEREAS**, notwithstanding the pending litigation and stay, the Board has committed to comply with and make the remittances required by Part 1.9 at such time as the stay is lifted or AB 26 and AB 27 are upheld; and

**WHEREAS**, pursuant to Section 34194.1, in making remittances to the County Auditor pursuant to Section 34194 or 34194.5, the County may use any available funds not otherwise obligated for other uses; and

**WHEREAS**, pursuant to Section 34194.2, the County may enter into an agreement with the Agency, whereby the Agency will transfer a portion of its tax increment to the County, in an amount not to exceed the annual remittance required that year pursuant to Chapter 3 of Part 1.9, for the purpose of financing activities within the redevelopment area that are related to accomplishing the Agency's project goals; and

**WHEREAS**, the purpose of this Agreement is to provide for the transfer of funds by the Agency to the County in an amount not to exceed the remittances required by Part 1.9., with net available tax increment in this current fiscal year and forthcoming fiscal years; and

**WHEREAS**, for purposes of this Agreement, the term "Net Available Tax Increment," as used herein, means any tax increment funds allocated to the Agency, net of existing debt service payments and existing third-party contractual obligations, not including any funds on deposit in the Agency's Low and Moderate Income Housing Fund ("Housing Fund"), but including any portion of tax increment funds to be allocated to the Housing Fund for the 2011-12 Fiscal Year only, to the extent the Agency makes a finding that there are insufficient other moneys to meet its debt and other obligations, current priority program needs or its obligation to transfer funds to the County under Section 34194.2, as provided in this Agreement; and

**WHEREAS**, the obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment plan for each of the Agency's redevelopment project areas; and

**WHEREAS**, to the extent the Court has stayed the effectiveness of the payment obligation under AB 26 and AB 27, the County is not obligated to make any community remittance for the duration of the stay; and

**WHEREAS**, although the Parties wish to enter into this Agreement at this time, it shall be deemed null and void and of no further force or effect if AB 26 and AB 27 are determined to be invalid or otherwise unenforceable, for any reason; and

**WHEREAS**, in the event the Court revises or lifts its stay, or finds AB 26 and AB 27 to be valid, this Agreement shall be effective without further action by the County.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the Parties agree as follows:

### **I. INTRODUCTORY PROVISIONS**

The recitals above are an integral part of this Agreement and set forth the intentions of the Parties and the premises on which the Parties have decided to enter into this Agreement.

### **II. OBLIGATIONS OF THE PARTIES**

1. The Agency shall transfer to the County Net Available Tax Increment or other funds in an amount not to exceed the remittance payments required by Part 1.9. In the event the amounts available for transfer to the County are insufficient for the County to pay the remittance amount determined by the State Director of Finance pursuant to Part 1.9 (subject to the County's right to appeal the amount of remittance to the director pursuant to Part 1.9) ("Remittance"), the County may loan such funds to the Agency. Should the County loan such funds to the Agency, the Agency shall repay such amounts to the County, in future years, according to terms and a schedule agreed upon by the Parties. Any Remittance payments funded in part by the County shall be subject to repayment solely from Agency funds and assets.

a. The Agency shall transfer Net Available Tax Increment to the County at least 21 days prior to the due date of each installment of the Remittance.

2. Upon the County's receipt of Net Available Tax Increment or other funds, the County will deposit the funds in a separate Voluntary Alternative Redevelopment Program account ("VARP account"). The VARP account shall contain no other funds of the County, except funds transferred by the Agency and any interest earned thereon. The County shall only use the Agency funds in the VARP account for making the State Remittance payments. Any funds in the VARP account not needed or used to make remittance payments shall be returned to the Agency.

3. Subject to the receipt of sufficient Net Available Tax Increment or other funds from the Agency, the County shall timely remit to the County Auditor the payments required by Part 1.9. The County's obligation to pay such remittances shall be a special limited obligation of the County payable solely from Net Available Tax Increment or any other funds made available to the County by the Agency, including but not limited to amounts previously or subsequently pledged to the County for payment of redevelopment expenses that remain unencumbered. In the event the Net Available Tax Increment is insufficient to fully fund the Remittance, the County may loan the necessary funds to the Agency, subject to repayment by the Agency. However, nothing contained in this Agreement shall be deemed to be a pledge of the County's general fund revenues or other assets to make the remittance payments contemplated by Part 1.9, and any remittance payments funded in part by the County shall be subject to repayment solely from Agency funds and assets.

4. The obligations of the Agency under this Agreement shall be payable out of Net Available Tax Increment, as defined in the above recitals and/or as defined or provided for in any applicable constitutional provision, statute or other provision of law now existing or adopted in the future, levied by or for the benefit of taxing agencies in the Agency's redevelopment project areas, and allocated to the Agency and/or any lawful successor entity of the Agency and/or any entity established by law to carry out the redevelopment plan for the redevelopment project areas and/or expend tax increment or pay indebtedness of the Agency to be repaid with tax increment, pursuant to Section 33670 or any applicable constitutional provision, statute or other provision of law now existing or adopted in the future. In the event that additional funds are required in order to make the Agency payments to the County required by this Agreement, the Agency shall make such payments from income received from its projects and programs or any other additional funds available to it.

5. For the 2011/12 fiscal year only, Part 1.9 authorizes the Agency, upon making certain findings, to transfer Housing Funds to the County under this Agreement. Should the Agency determine that it must use Housing Funds to make the full transfer of funds to the County for the State Remittance, the Agency shall so inform the County, make the required findings of section 34194.3, and identify the impacts of the diversion of Housing Funds.

6. Until the Court's stay is revised or lifted, or the Court determines that AB 26 and AB 27 are valid, the Agency shall not transfer any funds to the County. In the event the Court determines that AB 26 and/or AB 27 are invalid or otherwise unenforceable for any reason, this Agreement shall be deemed null and void and of no further force or effect, as of the date such order or judgment becomes final. Any State Remittance payments, or portions thereof, made by the County and returned to the County, or amounts otherwise held in the VARP account, shall be returned to the Agency.

### **III. LIABILITY AND INDEMNIFICATION**

- a. County: Neither Agency, nor its officers, directors, officials, agents, employees, volunteers, or representatives shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by County under or in connection with this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, County shall fully indemnify, defend, and hold Agency harmless from any liability arising out of the performance of the Agreement or injury of such nature that it would be actionable if inflicted by a private person, (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by County in connection with this Agreement.
- b. Agency: Neither County, nor its officers, directors, officials, agents, employees, volunteers, or representatives shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Agency under or in connection with this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, Agency shall fully indemnify, defend, and hold County harmless from any liability

arising out of the performance of the Agreement or injury of such nature that it would be actionable if inflicted by a private person, (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Agency in connection with this Agreement.

#### **IV. ENTIRE AGREEMENT; WAIVERS; FURTHER ACTS AND AMENDMENTS**

1. This Agreement shall be executed in duplicate originals, each of which is deemed to be an original. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof.
2. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to the subject matter of this Agreement.
3. This Agreement is intended solely for the benefit of the County and the Agency, and their respective successors in interest. Notwithstanding any reference in this Agreement to persons or entities other than the County and the Agency, there shall be no third party beneficiaries under this Agreement.
4. Each Party agrees to perform any further acts and execute and deliver any documents that may be necessary to carry out the provisions of this Agreement.
5. Any waiver or amendment of the provisions of this Agreement must be in writing and signed by the authorized representatives of the Parties.

#### **V. SEVERABILITY**

If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

#### **VI. BINDING ON SUCCESSORS**

This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the Parties, whether by agreement or operation of law. This Agreement shall survive any full or partial merger of the County and the Agency and shall remain in effect and be fully enforceable according to its terms.



**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by and through their respective authorized officers as of the date first set forth above.

COUNTY OF STANISLAUS

STANISLAUS COUNTY  
REDEVELOPMENT AGENCY

By: \_\_\_\_\_  
RICHARD W. ROBINSON,  
Chief Executive Officer

By: \_\_\_\_\_  
KIRK FORD, Director

APPROVED AS TO FORM:

APPROVED AS TO FORM:

John P. Doering  
County Counsel

By: \_\_\_\_\_  
Thomas E. Boze  
Deputy County Counsel

By: \_\_\_\_\_  
Nancy C. Miller  
Agency Counsel

DRAFT

# Stanislaus County Redevelopment Agency

Authorization of a Reimbursement  
Agreement in Accordance with AB x1 27

# REIMBURSEMENT AGREEMENT

## AB X1 27

- ▶ AB x1 27 authorizes redevelopment agencies to avoid dissolution by opting into a Voluntary Program requiring annual remittance payments to the State of California.
  - As the Agency's Sponsoring Community, Stanislaus County is required to make the remittance payments.

# REIMBURSEMENT AGREEMENT

AB X1 27

- ▶ Any action by the County to make the necessary remittance payments to the State will be contingent on the Agency's ability to reimburse the County for payment.
- ▶ If the Agency is unable to reimburse the County:
  - Agency dissolves OR
  - County may allow the Agency to provide full reimbursement in subsequent years.

# REMITTANCE PAYMENTS

## REMAINING 32-YEAR LIFE OF THE AGENCY

- ▶ Fiscal Year 2011–2012: \$2,655,853
- ▶ Fiscal Year 2012–2013: \$631,800
- ▶ Subsequent remittance payments are estimated to be slight less than the Fiscal Year 2012–2013 payment and annually reducing in proportion to the Agency's annual debt service.

# STAFF RECOMMENDATION

## REIMBURSEMENT AGREEMENT

- ▶ Authorize the Executive Director to enter into an agreement with Stanislaus County for reimbursement of State of California remittance payments made by the County under the Alternative Voluntary Redevelopment Program in accordance with AB x1 27.