

File No. 0913444

Committee Item No. 3

Board Item No. 17

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 2/24/10

Board of Supervisors Meeting

Date 03/16/10

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Gail Johnson

Date 2/19/10

Completed by: [Signature]

Date 2/25/10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

06

01 01 3

1 [Redevelopment Agency Bond Authorization]

2  
3 **Resolution approving the issuance by the Redevelopment Agency of Bonds in an**  
4 **additional principal amount not to exceed \$28 million to finance a portion of**  
5 **redevelopment activities described in the approved Budget as amended for fiscal year**  
6 **2009-2010 of which additional tax increment will be needed in FY 2010-2011 for such**  
7 **financing thereof.**

8 WHEREAS, The Redevelopment Agency of the City and County of San Francisco (the  
9 "Agency") is implementing various Redevelopment Plans and programs in the City and  
10 County of San Francisco (the "City") in accordance with the California Community  
11 Redevelopment Law California Health and Safety Code section 33000 et. seq. (the "Law");  
12 and,

13 WHEREAS, Section 33606 of the Law provides for approval of the annual budget of  
14 the Agency, and any amendments to the budget, by the legislative body of the City (the  
15 "Board of Supervisors"); and,

16 WHEREAS, The Board of Supervisors approved the Agency's budget for the fiscal year  
17 2009-10 (the "Budget") and approved the issuance of bonds in the principal amount of not to  
18 exceed \$87.5 million for the purposes of financing a portion of the Budget ("Bonds") by  
19 Resolution No. 267-09; and,

20 WHEREAS, on July 24, 2009, the California Legislature enacted, in a special legislative  
21 session, Assembly Bill No. 26 (Statutes 2009, Chapter 21), which added Sections 33690 and  
22 33690.5 and required the Agency to make a payment estimated to be \$28.7 million in fiscal  
23 year 2009-10 for deposit into the Educational Revenue Augmentation Fund ("ERAF") of the  
24 City and County of San Francisco; and

1           WHEREAS, The Board of Supervisors, by Resolution No. \_\_\_\_\_, approved  
2 amendments to the Agency Budget for the fiscal year 2009-10 to (i) allocate \$28.7 million for  
3 payment to ERAF; (ii) increase expenditure authority by the amount of additional grant  
4 reimbursements received from the EDA; and (iii) increase expenditure authority by the amount  
5 of \$1,033,417 in additional HOPWA funds; and

6           WHEREAS, Section 33690 (b) of the Law authorizes the Agency to make its ERAF  
7 payment by using any funds that are legally available and not legally obligated for other uses,  
8 including but not limited to bond proceeds or other indebtedness; and

9           WHEREAS, the Agency seeks to make the ERAF payment by financing a portion of its  
10 Budget, as amended, whereby the Agency will enter into loans and/or issue and refund, as  
11 necessary, or cause to be loaned and/or issued and/or refunded on its behalf by a public  
12 finance authority, tax allocation bonds, notes, or other evidence of indebtedness (such loans,  
13 bonds, notes or other evidence of indebtedness being referred to as the "Bonds") in an  
14 additional principal amount of not to exceed \$28 million, which will be repaid from and secured  
15 by the taxes allocated to and paid to the Agency pursuant to the Law (and in particular but not  
16 limited to Sections 33670-33674) and to Section 16 of Article XVI of the California  
17 Constitution;

18           WHEREAS, The Law provides that the issuance of the Bonds is subject to the approval  
19 of the Board of Supervisors; and

20           WHEREAS, The Agency hereby requests that such approval be granted, and the Board  
21 of Supervisors is agreeable to doing so, based on the terms and conditions contained in this  
22 resolution; now, therefore, be it

23           RESOLVED, By the Board of Supervisors of the City and County of San Francisco that  
24 it does hereby approve the issuance of the Bonds by the Agency in an additional principal  
25

1 amount of not to exceed \$28 million for the purposes of financing a portion of the Agency's  
2 Budget related to the ERAF payment; and be it

3           FURTHER RESOLVED, That the Agency is authorized to refund such Bonds if the sale  
4 of refunding Bonds produces a minimum net debt service savings (net of reserve fund  
5 earnings and other offsets) of at least 3% of the par value of Bonds that are refunded to  
6 achieve a more favorable debt to debt service coverage ratio.



<b>Item 3</b> <b>File 09-1344</b> <i>(Divided from File 09-1212 and Continued to the call of the Chair on November 18, 2009)</i>	<b>Department:</b> San Francisco Redevelopment Agency (SFRA)
--	---

## EXECUTIVE SUMMARY

### Legislative Objectives

Resolution approving the issuance of a not-to-exceed \$28,000,000 Tax Increment Bonds by the Redevelopment Agency to finance the costs of the State Educational Revenue Augmentation Fund (ERAF) payment, which will require additional Tax Increment financing in FY 2010-11.

### Fiscal Impacts

- The SFRA's FY 2009-2010 required ERAF payment is estimated at \$28,732,925 and due to the State by May 10, 2010. The net proceeds from the \$28,000,000 Tax Increment Bond sale will be approximately \$24,921,272, which is \$3,811,653 less than the \$28,732,925 required ERAF payment. The SFRA has tax increment funding available from current and prior year balances totaling approximately \$5,100,000 to fund this difference.
- Based on the FY 2009-2010 SFRA budget, previously approved by the Board of Supervisors, the SFRA is authorized to issue \$87,500,000 of Tax Increment Bonds, which would increase by a not-to-exceed \$28,000,000 or 32 percent to \$115,500,000.
- Total estimated debt service over 30-years for the not-to-exceed \$28,000,000 Tax Increment Bonds is \$79.9 million, of which 57 percent, or \$45.54 million would be paid from the City's General Fund. The additional annual cost to the City's General Fund for the proposed increased debt service would range from \$1,008,900 to \$1,556,100 over the next 30 years.

### Key Points

- In October 2009, the California Redevelopment Association filed a lawsuit questioning the constitutionality of the State's required ERAF payments by redevelopment agencies.
- If the proposed resolution is not approved, \$23,700,000 of SFRA's existing FY 2009-2010 appropriations would be needed to fund the subject ERAF, resulting in significant delays to four housing projects, subject to approval by the SFRA Commission.

### Recommendations

- Amend to authorize the SFRA's FY 2009-2010 budget to increase allowable expenditures to cover the required ERAF payment to the State to not-to-exceed \$28,800,000.
- Given that (a) approval of the proposed resolution would result in additional General Fund costs of \$1,008,900 to \$1,556,100 annually over the next 30 years, yet (b) denial of the proposed resolution would result in significant delays to four housing projects, approval of the proposed resolution is a policy decision for the Board of Supervisors.

## MANDATE STATEMENT

Section 33606 of the California Community Redevelopment Law, California Health and Safety Code requires the legislative body of the City, which is the Board of Supervisors in San Francisco, to approve the annual budget of the San Francisco Redevelopment Agency (SFRA). In addition, Redevelopment Law requires that the issuance of bonds by the Redevelopment Agency be subject to approval of the Board of Supervisors.

Assembly Bill 26 (Statutes 2009, Chapter 21) approved on July 24, 2009, as part of the State's FY 2009-2010 budget, requires all California redevelopment agencies to make State Educational Revenue Augmentation Fund (ERAF) payments, as determined by the State, to provide funding for education. In accordance with State law, redevelopment agencies are permitted to make their ERAF payments using any funds that are legally available and not legally obligated for other uses, including but not limited to taxable bond proceeds or other indebtedness. The Redevelopment Agency's required ERAF payment is due to the State by May 10, 2010.

## BACKGROUND

The Board of Supervisors previously approved the FY 2009-2010 SFRA budget totaling \$267 million, and approved the issuance \$87,500,000 of Tax Increment bonds, to finance a portion of the FY 2009-2010 budget (Resolution No. 267-09).

On November 24, 2009, the Board of Supervisors approved a resolution (File 09-1212; Resolution No. 473-09) to amend the FY 2009-2010 Redevelopment Agency budget to (a) authorize an expenditure of a not-to-exceed \$28,700,000 payment to the Educational Revenue Augmentation Fund (ERAF); (b) authorize a not-to-exceed \$156,000 increase in annual expenditures for a new Senior Development Specialist position, to be funded with additional grant reimbursements from the U.S. Department of Commerce's Economic Development Administration; and (c) authorize a not-to-exceed \$1,033,417 increase in expenditures for additional Federal Housing Opportunities for Persons with AIDS (HOPWA) funding from the U. S. Department of Housing and Urban Development for SFRA's facilities maintenance program. That prior proposed resolution (File 09-1212; Resolution No. 473-09) also requested the approval to issue an additional not-to-exceed \$28,000,000 of Tax Increment Bonds by the Redevelopment Agency to primarily finance the cost of the SFRA's required ERAF payment, which was included in the FY 2009-2010 Redevelopment Agency budget. However, on November 18, 2009, the Budget and Finance Committee, in considering File 09-1212, divided the subject resolution (File 09-1344) to continue the approval of the issuance of the additional \$28,000,000 Tax Increment Bonds to the Call of the Chair.



## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the issuance of an additional principal amount not-to-exceed \$28,000,000 of Tax Increment Bonds by the Redevelopment Agency to primarily fund SFRA's required ERAF payment to the State for FY 2009-2010. Funding for payment of the debt service for such Tax Increment Bonds would not be required until FY 2010-2011.

The proposed resolution also authorizes the SFRA to subsequently refund the \$28,000,000 of Tax Increment Bonds, subject to approval of the Board of Supervisors, if the sale of the refunding bonds would result in a minimum net debt service savings (net of reserve fund earnings and offsets) of at least three percent of the par value of bonds that are refunded to achieve a more favorable debt to debt service coverage ratio.

## FISCAL IMPACTS

Ms. Amy Lee, Deputy Executive Director of the SFRA advises that the San Francisco Redevelopment Agency's FY 2009-2010 required ERAF payment to the State is currently estimated at \$28,732,925 and must be paid to the State by May 10, 2010. As noted above, the prior resolution (File 09-1212) authorized an amendment to the SFRA's FY 2009-2010 budget to provide a not-to-exceed \$28,700,000 ERAF payment to the State. The Budget and Legislative Analyst therefore recommends that the proposed resolution be amended to approve an amendment to the SFRA's FY 2009-2010 budget to authorize expenditures not-to-exceed \$28,800,000, instead of \$28,700,000, to cover the required ERAF payment to the State.

Under the proposed resolution, the SFRA would be authorized to issue an additional not-to-exceed \$28,000,000 of Tax Increment Bonds to primarily fund the required ERAF payment to the State. The sources and uses of the proposed not-to-exceed \$28,000,000 in additional Tax Increment bond proceeds for FY 2009-2010 are shown in Table 1 below.

Table 1: Sources and Uses of \$28,000,000 Tax Increment Bond Proceeds

<b>Sources of Funds</b>	
Bond Proceeds - Par Amount	\$28,000,000
<b>Uses of Funds</b>	
ERAF Payment	\$ 24,921,272
Cost of Bond Issuance	70,331
Debt Service Reserve Fund	2,800,028
Underwriters Discount	205,868
Contingency (0.01%)	2,501
<b>Total Uses</b>	<b>\$ 28,000,000</b>

As shown in Table 1 above, from the proposed sale of the \$28,000,000 Tax Increment Bonds, the net proceeds available for the SFRA's required ERAF payment to the State would be approximately \$24,921,272. The current total estimated ERAF payment of \$28,732,925 is

\$3,811,653 more than the \$24,921,272 of bond proceeds estimated to be available for the ERAF payment. However, Ms. Lee advises that the SFRA has existing tax increment funding available from current and prior year balances totaling approximately \$5,100,000, which would be allocated for the estimated additional \$3,811,653 ERAF payment.

As noted above, based on the FY 2009-2010 SFRA budget, as previously approved by the Board of Supervisors, the SFRA is currently authorized to issue \$87,500,000 of Tax Increment Bonds. The proposed resolution would increase the amount of Tax Increment Bonds authorized to be issued by a not-to-exceed \$28,000,000 or 32 percent from \$87,500,000 to \$115,500,000.

### **Debt Service Payments**

According to Ms. Lee, the requested not-to-exceed \$28,000,000 of Tax Increment Bonds would be sold in April of 2010, such that no debt service payments would be required in FY 2009-2010. Based on an estimated average taxable interest rate of 9.0 to 9.5 percent annually, and 30 year debt payments, Ms. Lee estimates that the FY 2010-2011 debt service payment for the not-to-exceed \$28,000,000 in additional Tax Increment Bonds will be approximately \$1.77 million and that, beginning in FY 2011-2012, the annual debt service payment will be approximately \$2.73 million.

According to Ms. Lee, the fiscal impact of the proposed resolution on the City would be 57 cents of each Tax Increment dollar provided to SFRA, which would come from the City's General Fund. The other 43 cents (\$1.00 less 57 cents) would be paid by other tax entities in the City, including the Community College District, the San Francisco Unified School District, the Bay Area Rapid Transit District, and the Bay Area Air Quality Management District. Therefore, the additional annual cost to the City's General Fund for the proposed increased debt service would range from \$1,008,900 (57 percent of \$1.77 million) to \$1,556,100 (57 percent of \$2.73 million) over the next 30 years. Total estimated debt service over the 30-year period for repayment of the not-to-exceed \$28,000,000 Tax Increment Bonds is \$79.9 million, of which 57 percent, or \$45.54 million would be paid from the City's General Fund.

## **POLICY CONSIDERATIONS**

### **Pending Court Action Could Potentially Invalidate State's ERAF Payments**

As discussed in the attached memorandum of February 10, 2010 from Mr. Fred Blackwell, Executive Director of the SFRA, the California Redevelopment Association filed a lawsuit in 2008 which found that previous required ERAF payments to be paid to the State by redevelopment agencies violated the State's Constitution. As a result, the State Legislature changed the language in the legislation that required the FY 2009-2010 redevelopment agencies ERAF payments to the State to provide a more direct relationship between the tax increment collection and the required State payments. Despite that language change, in October of 2009, the California Redevelopment Association filed a second lawsuit questioning the constitutionality of the State's ERAF payments by redevelopment agencies in FY 2009-2010 and has requested the court to rule on this case prior to the May 10, 2010 deadline when ERAF

payments are due to the State. Ms. Lee advises that if the California Redevelopment Association prevails in this second lawsuit, such that the May 2010 ERAF payments are invalidated, the SFRA will request the Board of Supervisors to re-appropriate the net estimated proceeds of \$24,921,272 from the subject not-to-exceed \$28,000,000 Tax Increment Bond issuance for other needed SFRA purposes.

### **If the Board of Supervisors Does Not Approve the Proposed Resolution, Four Major Housing Projects Would be Significantly Delayed**

The SFRA has set-aside \$23,700,000 in taxable Tax Increment Bond proceeds which were intended for the SFRA's Low and Moderate Income Housing Fund (LMIHF) in the SFRA's approved FY 2009-2010 budget. Ms. Lee advises that this \$23,700,000 would be used as the primary source of funds to make the required \$28,732,925 ERAF payment to the State, if the proposed resolution is not approved. In addition, as noted above, the SFRA has approximately \$5,100,000 of other tax increment funding available from current and prior year balances to fund the balance of the ERAF payment to the State.

However, if the proposed resolution is not approved, such that the previously appropriated \$23,700,000 is used by the SFRA to fund the required ERAF payment to the State, the attached memorandum identifies four major LMIHF projects that would be significantly delayed, subject to the SFRA Commission's approval. These four LMIHF projects include (a) El Dorado Hotel at 9<sup>th</sup> and Howard Streets, (b) Central Freeway Parcel U at Octavia and Haight Streets, (c) Central Freeway Parcel K at Octavia and Hayes Streets, and (d) Mission Bay South Parcel 3-East at 3<sup>rd</sup> and Mission Rock. Ms. Lee advises that if the SFRA is authorized to issue the proposed not-to-exceed \$28,000,000 in additional Tax Increment Bonds to make the required ERAF payment to the State, the SFRA would use the previously appropriated \$23,700,000 of Tax Increment proceeds for its previously approved FY 2009-2010 LMIHF Program.

## **RECOMMENDATIONS**

1. Amend the proposed resolution to authorize an amendment to the SFRA's FY 2009-2010 budget to increase allowable expenditures to cover the required ERAF payment to the State from not-to-exceed \$28,700,000 to not-to-exceed \$28,800,000.
2. Given that (a) approval of the proposed resolution would result in additional General Fund costs of \$1,008,900 to \$1,556,100 annually over the next 30 years, yet (b) denial of the proposed resolution would result in significant delays for four of SFRA's law and moderate income housing projects, approval of the proposed resolution, as amended, is a policy decision for the Board of Supervisors.

San Francisco  
Redevelopment Agency

One South Van Ness Avenue  
San Francisco, CA 94103

415.749.2400



GAVIN NEWSOM, Mayor

Rick Swig, President  
Darshan Singh, Vice President  
London Breed  
Miguel M. Bustos  
Frances Covington  
Leroy King

Fred Blackwell, Executive Director

February 10, 2010

107-030.10-247

Debra Newman  
Budget Analyst  
Fox Plaza  
1390 Market Street, Suite 1025  
San Francisco, CA 94102

Dear Ms. Newman:

In November 2009, the Board of Supervisor's approved the Agency's request for authorization to appropriate a State budget mandate to provide a \$28.7 million payment towards the State Education Relief Augmentation Fund (SERAF). However, during the approval process, the Board declined to approve the authorization for the Agency to issue \$28.0 million in bond proceeds for the purposes of making this payment. While the appropriation authorization was approved as necessary to extend the Yerba Buena Project Area, the inability for the Agency to issue the \$28.0 million in bonds would require that the Agency use existing housing funds to make the payment, thereby significantly delaying our housing projects. Currently, the Agency has approximately, \$4.1 million that has been redirected toward the \$28.7 million SERAF payment. The Agency will need to identify \$24.6 million in existing funds (housing) if it does not receive the bonding authorization.

The final decision of which projects will be either foregone or delayed is within the decision of the San Francisco Redevelopment Commission; however, the following projects would likely be impacted by the Agency's inability to issue bonds to make the SERAF payment:

- 1) El Dorado Hotel (9<sup>th</sup>/Howard):
  - Existing Building currently providing 58 Units of Special Needs Supportive Housing
  - Needs substantial rehab
- 2) Central Freeway Parcel U (Octavia/Haight):
  - Agency owned site programmed for approximately 30 units of Supportive Housing for Homeless Transitional Age Youth
  - RFP slated to be issued in FY 09/10 to leverage State Homeless Youth funding
  - Project would include on-site supportive services with full time case management and property management staff
  - Part of 10 Year Plan to End Chronic Homelessness and TAY Task Force Recommendations

- 3) Central Freeway Parcel K (Octavia/Hayes):
  - Agency owned site programmed for approximately 20-25 units of Affordable First Time Homeownership Housing
  - Project would include ground floor retail at corner of Octavia & Hayes
  - RFP slated to be issued in FY 09/10
  
- 4) Mission Bay South Parcel 3-East (3<sup>rd</sup>/Mission Rock):
  - Agency owned site programmed for approximately 95 units of Supportive Housing for Chronically Homeless Individuals
  - RFP slated to be issued in FY 09/10
  - Project would include on-site supportive services with full time case management and property management staff Part of 10 Year Plan to End Chronic Homelessness

The Agency has met with Supervisor Avalos along with Assistant Controller Zmuda to brief him on the rationale to issue additional bonds for the purposes of making the SERAF payment and avoiding delays in our housing projects.

Notwithstanding, there have been two court actions led by the California Redevelopment Association (CRA) to invalidate the State raid on the Redevelopment Agencies via SERAF payments. The first lawsuit in 2008 resulted in a ruling that was ultimately, not appealed by the State, where the court found that the redevelopment raid violated the State constitution. Thereafter, the State legislature altered the budget language to provide more of a direct relationship between the payments and the tax increment collection. However, in October 2009, the CRA filed a second lawsuit on State Budget raid of redevelopment funds. The CRA has asked the court to rule before the May 2010 payment is due.

Given the timing of our projects as well as the length of time to issue and collect bond proceeds, the Agency is must seek the authorization to issue bonds for the purposes of making the May 2010 SERAF payment. If the CRA lawsuit invalidates the May 2010 SERAF payment, the Agency will come before the Board of Supervisors and its Commission to re-appropriate the net proceeds of \$24.6 from the \$28.0 million bond issuance.

Sincerely,



Fred Blackwell  
Executive Director

