

File No. 100228

Committee Item No. 5

Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 3/17/10

Board of Supervisors Meeting

Date 3/23/10

Cmte Board

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| <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 |
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OTHER

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Completed by: Gail Johnson

Date 3/12/10

Completed by: [Signature]

Date 3/18/10

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

01/02/0

1 [Redevelopment Agency Budget]

2
3 **Resolution approving an amendment to the budget of the Redevelopment Agency of**
4 **the City and County of San Francisco for fiscal year 2009-2010 by increasing the**
5 **Agency's tax increment bond proceeds by \$28 million and authorizing expenditures in**
6 **an amount not to exceed \$28.8 million for payment to the Supplemental Educational**
7 **Revenue Augmentation Fund.**

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

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

17 WHEREAS, The Board of Supervisors approved the Agency's budget for the fiscal year
18 2009-10 and approved the issuance of bonds in the principal amount of not to exceed \$87.5
19 million for the purposes of financing a portion of the budget by 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 \$28.8 million in fiscal
23 year 2009-10 for deposit into the Supplemental Educational Revenue Augmentation Fund
24 ("SERAF") of the City and County of San Francisco; and

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

4 WHEREAS, the Board of Supervisors approved, by Resolution 473-09, amendments to
5 the Agency's fiscal year 2009-2010 budget (the "Budget") to authorize, among other things,
6 the Agency's expenditure of funds for the SERAF payment, but did not increase the Agency's
7 revenues to cover the amount of the SERAF payment;

8 WHEREAS, the use of existing Agency funds to cover the SERAF payment would
9 require the reprogramming of funds intended for the Low and Moderate Income Housing Fund
10 and thus result in the significant delay in four affordable housing projects;

11 WHEREAS, the Board of Supervisors has approved in a separate resolution
12 (Resolution No. _____) the issuance by the Agency of bonds in the additional principal
13 amount not to exceed \$28 million;

14 WHEREAS, The Agency wishes to amend its Budget for the fiscal year 2009-10 to
15 permit the receipt of additional tax increment bond proceeds in the amount of \$28 million for
16 the purpose of making the SERAF payment; now, therefore, be it

17 RESOLVED, By the Board of Supervisors of the City and County of San Francisco that
18 it does hereby approve the following amendment to the Budget, which is on file with the Clerk
19 of the Board of Supervisors in File No. 105238 and is hereby declared to be a part of this
20 Resolution as if set forth fully herein: increasing the amount of tax increment bond proceeds
21 that the Agency receives in the amount of \$28 million and increasing the Agency's
22 expenditure authority by \$28.8 million to cover the required SERAF payment.

Item 5
File 10-0228

Department:
San Francisco Redevelopment Agency (SFRA)

EXECUTIVE SUMMARY

Legislative Objectives

- Resolution approving an amendment to the FY 2009-2010 San Francisco Redevelopment Agency by (a) increasing the Agency's tax increment bond proceeds by \$28,000,000 and (b) authorizing expenditures not to exceed \$28,800,000 for payment of the Supplemental Educational Revenue Augmentation Fund (ERAF).

Fiscal Impacts

- The SFRA's FY 2009-2010 required ERAF payment to the State is estimated at \$28,732,925 and is due by May 10, 2010. A prior resolution (File 09-1212) authorized a not-to-exceed \$28,700,000 ERAF payment to the State. The proposed resolution would approve an amendment to the SFRA's FY 2009-2010 budget to authorize expenditures not-to-exceed \$28,800,000, instead of the previously authorized \$28,700,000, an increase of \$100,000, to cover the estimated \$28,732,925 ERAF payment to the State.
- On March 2, 2010, the Board of Supervisors approved a resolution (File 09-1344) for the Redevelopment Agency to issue up to \$28,000,000 of Tax Increment Bonds to primarily finance the costs of the ERAF payment. Under the proposed resolution, the Redevelopment Agency's FY 2009-2010 budget would be amended to appropriate the up to \$28,000,000 of Tax Increment bond proceeds, for the ERAF payment. The SFRA had previously set-aside \$23,700,000 in other Tax Increment Bond proceeds which were intended for the SFRA's Low and Moderate Income Housing Fund, in addition to approximately \$5,100,000 of other tax increment funding available from current and prior year balances to fully fund the ERAF payment to the State. Given that the Board of Supervisors has now authorized the Redevelopment Agency to issue up to \$28,000,000 of additional Tax Increment Bonds to fund the required ERAF payment to the State, if the proposed resolution is approved, the SFRA no longer needs to use the set-aside \$23,700,000 of Tax Increment proceeds for its previously approved FY 2009-2010 Low and Moderate Income Housing Fund Program.

Policy Consideration

- In October 2009, the California Redevelopment Association filed a lawsuit questioning the constitutionality of the State's required ERAF payments by redevelopment agencies.

Recommendation

- Approve the proposed resolution.

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 Educational Revenue Augmentation Fund (ERAF) payments to the State, as calculated 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 to the State is due by May 10, 2010.

BACKGROUND

In July of 2009, the Board of Supervisors 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 State for the required 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.

On March 2, 2010, the Board of Supervisors approved a resolution (File 09-1344) for the Redevelopment Agency to issue a not-to-exceed \$28,000,000 of additional Tax Increment Bonds to primarily finance the costs of the required ERAF payment to the State, for a total Redevelopment Agency authorization to issue up to \$115,500,000 of Tax Increment Bonds (\$87,500,000 plus \$28,000,000).

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve an amendment to the Redevelopment Agency's FY 2009-2010 budget by (a) increasing the Agency's Tax Increment bond proceeds by \$28,000,000 and (b) authorizing expenditures in an amount not-to-exceed \$28,800,000 for the required ERAF payment.

FISCAL IMPACTS

As noted above, on March 2, 2010, the Board of Supervisors approved a previous resolution (File 09-1344) enabling the Redevelopment Agency to issue up to \$28,000,000 of additional Tax Increment Bonds. As previously reported, the total estimated debt service for the \$28,000,000 of Tax Increment Bonds over 30 years is approximately \$79.9 million, of which approximately 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 this increased debt service ranges from \$1,008,900 to \$1,556,100 over the next 30 years.

When this previous resolution to authorize the issuance of up to \$28,000,000 of Tax Increment Bonds was considered by the Budget and Finance Committee, the Budget and Legislative Analyst recommended that the resolution be amended to increase the Redevelopment Agency's FY 2009-2010 budget to include the \$28,000,000 of additional Tax Increment bond proceeds and authorize a not-to-exceed \$28,800,000 required ERAF payment to the State. However, the City Attorney advised the Budget and Finance Committee that such amendments to the previous resolution would be material, such that they could not be immediately amended into the previous resolution. The proposed resolution would therefore incorporate these previously recommended amendments to the Redevelopment Agency's FY 2009-2010 budget.

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 proposed resolution would approve an amendment to the SFRA's FY 2009-2010 budget to authorize expenditures not-to-exceed \$28,800,000, instead of the previously authorized \$28,700,000, an increase of \$100,000, to cover the estimated \$28,732,925 ERAF payment to the State.

Under the proposed resolution, the Redevelopment Agency's FY 2009-2010 budget would also be amended to increase the Redevelopment Agency's Tax Increment bond proceeds by \$28,000,000, which would be used to primarily pay for the ERAF payment. The SFRA had previously set-aside \$23,700,000 in other Tax Increment Bond proceeds which were intended for the SFRA's Low and Moderate Income Housing Fund in the SFRA's approved FY 2009-2010 budget, in addition to approximately \$5,100,000 of

other tax increment funding available from current and prior year balances to fully fund the ERAF payment to the State.

However, given that the Board of Supervisors has previously authorized the Redevelopment Agency to issue up to \$28,000,000 of additional Tax Increment Bonds to primarily fund the required ERAF payment to the State, the SFRA no longer needs to use the set-aside \$23,700,000 of Tax Increment proceeds for its previously approved FY 2009-2010 Low and Moderate Income Housing Fund Program.

POLICY CONSIDERATION

Pending Court Action Could Potentially Invalidate State's ERAF Payments

As previously reported, in October of 2009, the California Redevelopment Association filed a lawsuit questioning the constitutionality of the Redevelopment Agencies required FY 2009-2010 ERAF payments to the State 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 lawsuit, such that the May 2010 ERAF payments are invalidated, the SFRA will request the Board of Supervisors to re-appropriate the not-to-exceed \$28,800,000 funds for the ERAF payment for other needed Redevelopment Agency expenditures.

RECOMMENDATION

Approve the proposed resolution.