



Memorandum

TO: HONORABLE MAYOR, CITY
COUNCIL AND REDEVELOPMENT
AGENCY BOARD

FROM: Debra Figone
Harry S. Mavrogenes

SUBJECT: CITY-AGENCY SHORT-TERM
LOAN AGREEMENT DUE TO
BOND MARKET

DATE: May 5, 2009

RECOMMENDATIONS

- (a) City Council and Redevelopment Agency Board approval of a loan agreement from the City to the Redevelopment Agency from various City funds in an amount of \$12,000,000 with a term of up to 72 hours, for the purpose of paying Agency obligations such as capital, operating and other expenses in the Adopted FY 2008-2009 Agency Budget.
- (b) City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Sanitary Sewer Connection Fee Fund (540):
 - (1) Increase the Loan to the Redevelopment Agency appropriation in the amount of \$550,000;
 - (2) Increase the estimate for Loan Repayments from the Redevelopment Agency in the amount of \$550,000.
- (c) City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (382):
 - (1) Establish a Loan to the Redevelopment Agency appropriation in the amount of \$1,360,000;
 - (2) Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$1,360,000.
- (d) City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #7 (385):

MAYOR, CITY COUNCIL, AGENCY BOARD

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City/Agency Agreement

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- (1) Establish a Loan to the Redevelopment Agency appropriation in the amount of \$1,100,000;
 - (2) Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$1,100,000.
- (e) City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund (390):
- (1) Establish a Loan to the Redevelopment Agency appropriation in the amount of \$750,000;
 - (2) Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$750,000.
- (f) City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (391):
- (1) Establish a Loan to the Redevelopment Agency appropriation in the amount of \$4,510,000;
 - (2) Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$4,510,000.
- (g) City Council adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Subdivision Park Trust Fund (375):
- (1) Establish a Loan to the Redevelopment Agency appropriation in the amount of \$3,730,000;
 - (2) Establish an estimate for Loan Repayments from the Redevelopment Agency in the amount of \$3,730,000.
- (h) Approval of an amendment to the FY 2008-2009 Merged Area Cooperation Agreement between the City of San Jose and the Redevelopment Agency of the City of San Jose to specify a repayment schedule for outstanding City Parkland Fees owed to the City by the Agency.

OUTCOME

Approval of the recommended actions will allow the Redevelopment Agency to make capital, operating and other payments in the Adopted 2008-09 Agency budget.

BACKGROUND

The Agency's Adopted FY 2008-09 Capital Budget includes \$200,000,000 in capital projects. \$138,000,000 is public projects that are eligible to be paid for with tax-exempt bond proceeds and \$62,000,000 is assistance to private entities that are not eligible for tax-exempt financing. It was the intent of the Agency to issue up to \$70,000,000 in taxable bonds and \$30,000,000 in tax-exempt bonds to cover all of the budgeted projects, as well as operating expenses and other obligations, such as the County pass-through payment. However, because of the disruption of the financial markets, the Agency found that there was no market for taxable debt. Instead, it issued two series of tax-exempt bonds, for a total of \$117,000,000.

The Agency has experienced the unexpected need for unrestricted funds in the past when the state legislature, during times of state budgetary shortfall, has required redevelopment agencies to contribute to the Educational Revenue Augmentation Fund (ERAF). On several occasions when this has occurred, the Agency has been able to borrow revenues from City funds. Most recently, the Agency borrowed \$34,460,000 from the Sewer Service and Use Charge Capital Improvement Fund (545) and Sanitary Sewer Connection Fee Fund (540) in October to pay for ERAF and other commitments. Last week, a Sacramento superior court issued an injunction prohibiting the implementation of the ERAF requirement. If the \$12,803,259 budgeted for the ERAF in the current year is not required, it will be shifted to the Agency's Capital Reserve.

ANALYSIS

A short term loan totaling \$12,000,000 from various City funds is recommended in order for the Agency to fund operating and capital expenditures. The Agency will repay the various City funds with tax-exempt bond proceeds to be used in accordance with federal tax and Redevelopment law restrictions. The Agency will also pay the City interest, at the rate of the City's pooled funds, out of non bond proceeds. Although a term of up to 72 hours is provided, the Agency will be repaying the loan immediately with bond proceeds on hand; therefore there is no risk of non-payment to the City's funds. This payment method and the identification of City capital projects benefiting Redevelopment Agency/SNI areas, which has been used in prior years, ensures that the use of Agency bond proceeds meets the federal requirement for the expenditure of tax-exempt bond proceeds on capital expenditures within three years. In addition, the actions recommended in this memorandum provide a cost-effective means to funding operating and capital Agency expenditures given the current taxable bond market.

As detailed in Attachment A, City staff has identified the City project expenditures that are anticipated to occur within the three-year federal requirement for tax-exempt bonds. These projects are currently appropriated and the recommendations in this memorandum will not impact the project schedules.

It should be noted that as part of the City capital projects identified through the original City/Agency loan executed in October 2008, project schedule changes will necessitate a need to find additional City capital projects to meet the requirement to spend tax-exempt bond proceeds on eligible capital expenditures within three years. Additional City capital projects benefitting Redevelopment Agency/SNI areas of \$8,000,000 and the reallocation of tax-exempt bond funds received in October 2008 toward those other projects will be recommended in 2009-2010. Similarly, should any of the projects identified on Attachment A be delayed at the City's discretion or completed under budget, the City will be obliged to identify alternative expenditures consistent with the federal tax and Redevelopment law restrictions noted above.

An amendment to the Cooperation Agreement between the City and the Redevelopment Agency is also recommended in this memorandum. The amended Agreement will provide a payment schedule for outstanding City Parkland Fees owed by the Agency in the total amount of \$8,111,800. The payment by the Agency to the City in the amount of \$2,300,000 shall occur on or before October 1, 2009; \$1,311,800 shall occur on or before October 1, 2010; and \$4,500,000 shall occur on or before October 1, 2011.

EVALUATION AND FOLLOW-UP

Follow-up of specific projects will occur as those projects are brought to the Council/Board for consideration and approval. Follow-up on the bond issuance will occur as conditions change.

PUBLIC OUTREACH/INTEREST

This item meets Criterion 1 below. This Memorandum will be posted to the City's website with the May 19, 2009, City Council Agenda.

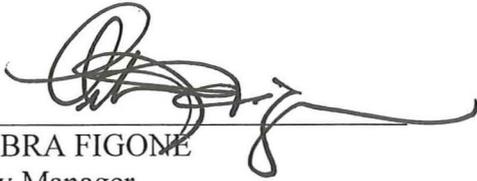
- Criterion 1:** Requires Board or Council action on the use of public funds equal to \$1 million or greater.
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

COORDINATION

This action has been coordinated with the Public Works Department, Parks, Recreation and Neighborhood Services Department, the City Attorney's Office and the Agency's General Counsel.

FISCAL IMPACT

While this will impact the Redevelopment Agency in the amount of \$12,000,000, there will be no impact to the City's General Fund or various Special Funds. Interest at the City's pooled rate will be paid by the Agency to the various City funds. Funding for repayment of the proposed loan is available in the Agency's Adopted FY 2008-2009 Capital Budget.



DEBRA FIGONE
City Manager

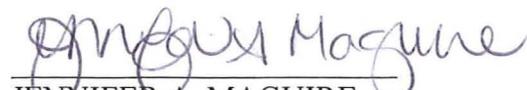


HARRY S. MAVROGENES
Executive Director

Attachment

I hereby certify that there will be available for appropriation in the designated funds and in the amounts as listed below in fiscal year 2008-2009 monies in excess of those heretofore appropriated therefrom:

Sanitary Sewer Connection Fee Fund	\$550,000
Construction and Conveyance Tax – Council District 5	1,360,000
Construction and Conveyance Tax – Council District 7	1,100,000
Construction and Conveyance Tax – Central Fund	750,000
Construction and Conveyance Tax – City-Wide Parks	4,510,000
Subdivision Park Trust Fund	3,730,000



JENNIFER A. MAGUIRE
Budget Director

Attachment A - Projects Funded from RDA Bond Proceeds

Appropriation	Estimated Eligible Expenditures at Loan Execution (May 19th)	Redevelopment/SNI Area Benefit
Fund 540 (Sanitary Sewer Connection Fee Fund)		
6519 30" Old Bayshore Supplement	350,000	Rincon
4254 Alum Rock Sanitary Sewer Supplement	200,000	Alum Rock
	550,000	
 Fund 382 (Construction and Conveyance Tax Fund - Council District 5)		
6135 TRAIL: Lower Silver Creek/Silverstone Place	1,360,000	East Valley/680
 Fund 385 (Construction and Conveyance Tax Fund - Council District 7)		
5558 Nisch Park Development	1,100,000	Tully/Senter
 Fund 390 (Construction and Conveyance Tax Fund - Central Fund)		
6634 Happy Hollow Park and Zoo FF&E	750,000	Tully/Senter
 Fund 391 (Construction and Conveyance Tax Fund - City-Wide Parks)		
5037 Happy Hollow Park and Zoo Phase II Renovations	1,910,000	Tully/Senter
5583 Happy Hollow East Side Improvements	1,200,000	Tully/Senter
5584 Kelley Park East Picnic Grounds and Restrooms	1,400,000	Tully/Senter
	4,510,000	
 Fund 375 (Subdivision Park Trust Fund)		
5102 Martin Park Expansion	2,900,000	Five Wounds/Brookwood Terrace
5864 LoBue Park Development	500,000	East Valley/680
6406 West Evergreen Park	330,000	West Evergreen
	3,730,000	
 Total Projects Funded from RDA Bond Proceeds	 12,000,000	