



# Memorandum

**TO:** HONORABLE MAYOR, CITY  
COUNCIL AND REDEVELOPMENT  
AGENCY BOARD

**FROM:** Debra Figone  
Harry S. Mavrogenes

**SUBJECT: SEE BELOW**

**DATE:** February 12, 2010

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**COUNCIL DISTRICT: 3**

**SUBJECT: CITY/AGENCY AGREEMENT ON FOURTH AND SAN FERNANDO  
PARKING GARAGE DEBT SERVICE PAYMENTS**

## RECOMMENDATION

Contingent upon Redevelopment Agency Board approval of the 2009-2010 Agency Budget to be heard on February 23, 2010, the following actions are recommended:

- (a) Adoption of resolutions by the City Council and Redevelopment Agency Board authorizing the City Manager and Executive Director to negotiate and execute a Second Amendment to the Loan Agreement from the City to the Redevelopment Agency from the General Purpose Parking Fund to:
  - (1) Extend the repayment term of the existing \$6.8 million loan amount.
  - (2) Provide for an additional loan from the City to the Redevelopment Agency from the Parking Capital Development Fund, in an amount not to exceed \$6.8 million, for the purpose of reimbursing the Agency for certain debt service payments in 2009-2010, 2010-2011, and 2011-2012 for the Fourth and San Fernando Parking Garage, subject to appropriation of funds.
  
- (b) City Council adoption of the following 2009-2010 Appropriation Ordinance amendments in the Parking Capital Development Fund:
  - (1) Establish a Loan to the Redevelopment Agency – Fourth and San Fernando Parking Garage appropriation in the amount of \$1,700,000
  - (2) Decrease the Department of Transportation Parking Capital Development project in the amount of \$1,700,000

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## **OUTCOME**

Approval of the recommended actions will allow the Redevelopment Agency (Agency) to make Fourth and San Fernando Parking Garage debt service payments in 2009-2010, as included in the Proposed Revised 2009-10 Agency budget and recommended as part of the Mayor's Budget Message for Fiscal Year 2009-2010 Redevelopment Agency Capital and Operating Budget and 2010-2015 Capital Improvement Program (CIP) dated November 20, 2009.

## **BACKGROUND**

In April 2005, the City and Agency entered into a Loan Agreement whereby the City loaned the Agency \$6.8 million from the City's Parking Fund, representing approximately two years of debt service the Agency would be paying on the Fourth and San Fernando Parking Garage. The loan was requested by the Agency in response to reductions in their tax increment revenue to "ensure the continuity of Agency projects and essential redevelopment programs". The loan was originally scheduled for repayment in January 2009. In 2007, the loan was amended to defer repayment of the \$6.8 million loan until July 31, 2012 and eliminating the accrual of interest after June 30, 2007 if the loan was repaid by July 31, 2012.

Due to the economic downturn and the unexpected size of the payment the Agency is required by the State to make to the Supplemental Educational Revenue Augmentation Fund (SERAF Payment) the Agency has been forced to make substantial reductions to its Adopted FY2009-10 Capital and Operating Budget and its 2010-2015 CIP.

The Agency's Proposed Revised 2009-2010 Capital and Operating Budget and 2010-2015 CIP includes the assumption that the City's Parking Fund would directly pay for \$8.5 million in debt service on the parking bonds (Bonds) for the Fourth and San Fernando Parking Garage. This included estimated payments of \$1.7 million in 2009-2010, \$3.4 million in 2010-2011, and \$3.4 million in 2011-2012.

Adoption of the Revised 2009-2010 Agency Capital and Operating Budget and 2010-2015 CIP is scheduled for Agency Board consideration on February 23, 2010. If approved, the actions recommended in this memorandum are necessary to make debt service payments on the Fourth and San Fernando Parking Garage by March 1, 2010.

Debt service payments on the City of San Jose Financing Authority Revenue Bonds, Series 2001A (4<sup>th</sup> & San Fernando Parking Facility Project) (the "Bonds") are due to the bond trustee (Wells Fargo Bank) on March 1 and September 1 each year. Under the terms of the Bond Trust Agreement, the payments due on March 1 each year include the interest coming due on the following September 1 and one-half of the principal coming due on the following September 1. The September 1 payments include the interest due for the following March 1 and the other half of the September 1 principal. The estimated payment amount due on March 1, 2010 is \$1.7 million.

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## ANALYSIS

Under the terms of the bond documents, specifically the Agency Pledge Agreement, the Agency has pledged tax increment for the payment of the Financing Authority's debt service on these Bonds. Therefore, to remain in compliance with the terms of the Pledge Agreement, the Agency will make the payment to the Trustee and be reimbursed by the City, instead of the direct City payment from the General Purpose Parking Fund assumed in the Agency's Proposed Budget. Based on recent negotiations between the City and Agency, it is proposed that the City's Parking Capital Development Fund reimburse the Agency for two years of debt service payments, which is estimated not to exceed \$6.8 million reflecting approximately what is available in this fund. This amount is \$1.7 million lower than the \$8.5 million payments originally proposed. Discussion of the impact of this action on the Agency Budget is included in a separate memorandum to be considered as part of the Agency Budget actions on February 23, 2010.

Under terms of the Second Amendment to the Loan Agreement, reimbursements shall be made to the Agency based upon the net transfer made to the bond trustee on March 1 and September 1 each year. Reimbursements will be made to the Agency from the City's Parking Capital Development Fund, subject to appropriation by the City Council each fiscal year. If the City Council does not appropriate the funds in any fiscal year, the Agency will still be required to make the debt service payment. Consistent with the Mayor's Budget Message for Fiscal Year 2009-2010 Redevelopment Agency Capital and Operating Budget and 2010-2015 CIP dated November 20, 2009, there are too many uncertainties to include a repayment within the five-year CIP. For purposes of this Agreement, a potential repayment in 2015-2016 has been identified, however, in order to consider City and Agency priorities at that time, it is anticipated that an amendment to this repayment timeframe may need to occur in the future. The City and Agency staff will discuss this possible repayment plan and present it to the City Council/ Agency Board for consideration in a future budget cycle. The loaned amounts to the Agency for these purposes shall not accrue interest.

Under terms of the Existing Loan Agreement and First Amendment, repayment of principal (\$6.8 million) was due and payable on July 31, 2012 and the provision for any future interest accrual (beyond June 30, 2007) was removed contingent upon Agency repayment of principal by July 31, 2012. Interest accrued through June 30, 2007 (\$440,000) was added to the Downtown Parking Acquisition project line in the Redevelopment Agency's 2006-2007 Capital Budget, in lieu of interest payment to the City. The \$440,000 was expended for downtown land acquisition. If the principal payment is not made on or before July 31, 2012, interest calculated at the City's pooled investment rate was to accrue from July 1, 2007 to the final date of payment. The repayment of the principal in the amount of \$6.8 million is proposed to be deferred until 2014-2015 as part of the Agency's Proposed Revised FY 2009-10 Capital and Operating Budget and 2010-2015 CIP. The proposed Second Amendment to the Loan Agreement, provides that the principal payment shall be due on or before June 30, 2015. If the Agency pays by this date, it is proposed that interest for the \$6.8 million should be waived. If not, interest would accrue from June 30, 2007.

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It should be noted that the Agency Pledge Agreement provides that interest earned on the debt service funds held by the bond trustee is currently paid annually to the City's General Purpose Parking Fund and subsequently transferred to the Agency. The proposed Second Amendment to the Loan Agreement provides that any such interest earned during the period of March 1, 2010 through March 1, 2012 shall be retained by the City's General Purpose Parking Fund.

The appropriations included in this memorandum allow for the reimbursement to the Agency upon the March 1, 2010 debt service payment. A decrease in the Parking Capital Development appropriation and the establishment of a loan to the Agency in the Parking Capital Development Fund is recommended. Currently, funding in the amount of \$6.9 million is allocated in the Parking Capital Development Fund. These funds are sufficient to cover estimated payments of \$1.7 million in 2009-2010, \$3.4 million in 2010-2011, and \$1.7 million in 2011-2012 (only the first payment). However, as a result, decreased funding will be available for future parking needs in the downtown area until Agency repayment of these funds occurs. It should be noted that parking development is neither needed, nor financially feasible in the core of downtown in the near future. Future reimbursements to the Agency, subject to appropriation of funds, will be made from funds in the Parking Capital Development Fund.

The Parking Capital Development Fund was established in 2007, following the Downtown Parking Management Plan Update. The purpose for the fund was to serve as a reserve account within the General Purpose Parking Fund to be used for expanding the downtown public parking supply. Funds transferred to the Parking Capital Development Fund on an annual basis typically represent approximately 50% of net operating revenues from the General Purpose Parking Fund. The transfer of funds into the Parking Capital Development Fund occurs after the necessary reserves and proper maintenance of the Parking System has been funded, including the 4<sup>th</sup> and San Fernando operation and maintenance reserve (25% of system-wide operating and maintenance costs annually) that is a requirement of the bond covenants.

It should also be noted that parking revenues are tracking below budgeted levels. A \$1.5 million downward adjustment to revenues and reductions in various capital projects and operational expenditures to offset the reduced revenues was approved by the City Council on February 9, 2010 as part of the 2009-2010 Mid-Year Budget Review. The loan to the Agency, combined with the current drop in revenues, and additional declines in revenue in the short term that will occur with proposed parking incentives for existing businesses, will place a financial strain on the General Purpose Parking Fund. Based on the current and projected economic climate in the near term, additional transfers of revenues to the Parking Capital Development Fund will not occur for the foreseeable future. Additionally, if any disposition of parking lots occurs in the future, a negative impact to the revenue stream in this fund and the General Purpose Parking Fund will occur.

The combined impact of all of the above factors, are that the projected budget for the Parking Program in 2010-2011 is currently unbalanced, and that additional program reductions beyond those approved at mid-year, and beyond those previously anticipated to occur in 2010-2011 to offset declining revenues associated with the economy, will be required. Every aspect of the Parking Program is being evaluated to determine where additional adjustments can occur,

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including staffing and operational service levels (facility hours of operation, security, cleaning/maintenance), further reductions in planned facility upgrades or repair, and various programs that encourage alternate modes of transportation (DASH Shuttle, EcoPass).

Further, it is also important to note that the Fourth and San Fernando Garage bond covenants require the City to set parking rates and charges to cover both the debt service on the Garage, and necessary operating and maintenance costs of the Parking System. To the extent that parking revenues, including surplus Agency revenues are insufficient to make the debt service payments, the City would be obligated to raise parking rates.

### **EVALUATION AND FOLLOW-UP**

The appropriation of funds for debt service payments in 2010-2011 and 2011-2012 will occur in future budgets.

### **PUBLIC OUTREACH/INTEREST**

This item meets Criterion 1 below. This Memorandum will be posted to the City's website for the February 23, 2010, City Council/Redevelopment Agency Board 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 City Attorney's Office and the Agency's General Counsel.

### **FISCAL IMPACT**

While this will impact the City's Parking Capital Program by approximately \$6.8 million, there will be no impact to the City's General Fund.

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	Total Appn	2009-10 Adopted Capital Budget Page	Last Budget Action (date, Ord. No.)
556	6181	Parking Capital Development	\$6,900,000	V-872	6/23/09, Ord. No. 28593

**CEQA**

Not a Project

  
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