



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson
Leslye Krutko
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: April 2, 2010

Approved

Date

4-22-10

COUNCIL DISTRICT: City-Wide

SUBJECT: ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE ICE CENTRE REVENUE FUND, LOW AND MODERATE INCOME HOUSING FUND, SEWAGE TREATMENT PLANT CONNECTION FEE FUND, AND SUBDIVISION PARK TRUST FUND

RECOMMENDATION

1. Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Low and Moderate Income Housing Fund:
 - a) Increase the estimate for Earned Revenue by \$52,734,250
 - b) Establish a Loan to the San José Redevelopment Agency in the amount of \$52,000,000
 - c) Establish a Reserve for the Loan Origination and Annual Monitoring Fee in the amount of \$406,250
 - d) Increase the Debt Service appropriation by \$172,000
 - e) Establish an appropriation to the Housing Department for Commercial Paper Debt Service in the amount of \$156,000

2. Adoption of the following Appropriation Ordinance amendments in the Ice Centre Revenue Fund:
 - a) Establish a Loan to the San José Redevelopment Agency in the amount of \$2,000,000
 - b) Decrease the Ending Fund Balance by \$2,000,000

3. Adoption of the following Appropriation Ordinance amendments in the Sewage Treatment Plant Connection Fee Fund:
 - a) Establish a Loan to the San José Redevelopment Agency in the amount of \$5,000,000

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 2

- b) Decrease the Reserve for Treatment Plant Expansion by \$5,000,000
- 4. Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
 - a) Establish a Loan to the San José Redevelopment Agency in the amount of \$3,000,000
 - b) Decrease the Reserve for Future Parkland Dedication Ordinance (PDO)/Park Impact Fee Ordinance (PIFO) Projects by \$3,000,000

OUTCOME

Approval of the recommendation will enable the appropriation of all funds for the purpose of loaning funds to the City of San José Redevelopment Agency (Agency) to meet the State mandated payment of \$62 million to the Supplemental Educational Revenue Augmentation Fund (SERAF) on May 10, 2010. The appropriation actions required for the Agency to meet the State mandated SERAF payment of \$12.8 million on May 10, 2011 will be incorporated into the 2010-2011 Budget.

EXECUTIVE SUMMARY

This memorandum implements the appropriation actions related to the SERAF loan that will be made by the City to the Agency. It is recommended that Council approve the following budget actions for 2009-2010: (1) loan appropriations for the Subdivision Park Trust Fund (\$3,000,000), the Sewage Treatment Plan Connection Fee Fund (\$5,000,000), the Ice Centre Revenue Fund (\$2,000,000), and the Low and Moderate Income Housing Fund (\$52,000,000); (2) revenue appropriation for the Low and Moderate Income Housing Fund (\$52,734,250); and (3) Interest and Fee Expense appropriations and Reserve for loan fees be established for the Low and Moderate Income Housing Fund (\$734,250).

These actions will allow the City to fund the SERAF loan to the Agency as outlined in the SERAF financing plan approved by City Council, Redevelopment Agency Board, and the City of San José Financing Authority (Authority) Board at the joint meeting held on February 23, 2010.

BACKGROUND

On July 28, 2009 Governor Schwarzenegger signed a package of 26 bills, as amended, to close the \$23.24 billion budget shortfall in the 2009-2010 State Budget. The budget package required redevelopment agencies across the state to make payments totaling \$1.7 billion in FY 2009-10 and \$350 million in FY 2010-11 to K-12 school districts serving students living in or near their

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 3

redevelopment areas. Redevelopment agencies must deposit these payments into a new county SERAF for allocation to the designated school districts. For the Agency, the impact is estimated at \$62 million in FY 2009-2010 and an additional \$12.8 million in FY 2010-2011. If the Agency does not make the SERAF payments, the Agency faces a "death penalty," which essentially requires the Agency to suspend all operations other than existing obligations.

On February 23, 2010, the City Council, the City of San Jose Financing Authority Board, and the Redevelopment Agency Board authorized the City Manager, the Authority Executive Director, and the Agency Executive Director to negotiate and execute a Loan Agreement between the City and the Agency to provide funds to the Agency in the total principal amount of \$75 million from various funding sources. The following chart provides the sources of funds that will be used to finance the SERAF loan:

Table 1 – Summary of Sources & Use of Funds

(millions of dollars)

	FY 2009-10	FY 2010-11	Total
<u>Sources of Funds</u>			
Inter-Fund Loan:			
Subdivision Park Trust Fund	\$3.0		\$3.0
Sewage Treatment Plant Connection Fee Fund	5.0		5.0
Ice Centre Revenue Fund	2.0		2.0
Housing Fund Loan:			
Low and Moderate Income Housing Fund	52.0	13.0	65.0
Total Sources of Funds	\$62.0	\$13.0	\$75.0
<u>Use of Funds</u>			
SERAF Payment	\$62.0	\$13.0	\$75.0

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 4

On March 30, 2010, the City Council and the Redevelopment Agency Board approved the Redevelopment Agency Housing Set-Aside Tax Allocation Bonds, Series 2010A, 2010B, and 2010C for the purpose of funding various affordable housing projects. The approval of this bond issuance freed up \$40 million in the Low and Moderate Income Housing Fund which will be utilized to fund a portion of the SERAF loan.

On April 20, 2010, staff will go to Council and Financing Authority Board with a recommendation to take actions related to the City of San José Financing Authority's Commercial Paper Program in order to allow issuance of Commercial Paper Notes to fund a loan to the Low and Moderate Income Housing Fund for the purpose of funding low and moderate income housing activities and administration costs. The approval of these actions will free up funds in the Low and Moderate Income Housing fund for the SERAF loan in the amount of \$25 million.

ANALYSIS

Principal Amount of the SERAF Loan

The SERAF financing plan approved on February 23, 2010 recommended funding the Agency's SERAF payments through a loan from the City to the Agency from the following sources:

1. \$10 million from the following City special funds: the Subdivision Park Trust Fund (\$3 million), the Sewage Treatment Plant Connection Fee Fund (\$5 million), and the Ice Centre Fund (\$2 million) (Inter-Fund Loan); and
2. The Low and Moderate Income Housing Fund (Low-Mod Housing Fund) in an amount sufficient to fund the remaining \$65 million in SERAF payments plus the associated issuance and carrying costs of debt issued to create flexibility in the Housing Funds so as to make the loan (Housing Fund Loan).

The SERAF loan funds will be disbursed to the Agency in two installments, in sufficient time for the Agency to make the required payments of \$62 million on May 10, 2010 and \$12.8 million on May 10, 2011. The first installment will be funded by the Inter-Fund Loan (\$10 million) and the Housing Fund Loan (\$52 million). The second installment of \$12.8 million will be funded by the Housing Fund Loan.

Associated Fees for SERAF

Based on the loan terms approved on February 23, 2010, the SERAF loan to the Agency is subject to the following loan fees:

- **Origination Fee** – A one-time loan origination fee estimated at \$375,000 based on a total SERAF loan value of \$75 million. This loan origination fee of 0.50% (1/2 of 1%) is applied to the principal amount and is payable by May 10, 2010 (coinciding with the timing for the

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 5

deposit to SERAF) to reimburse the City's General Fund for the resources utilized to develop, analyze and implement the SERAF loan funding components;

- **Annual Monitoring Fee** – An annual loan administration and monitoring fee estimated at \$187,500 per year based on a loan value of \$75 million. This annual loan administration and monitoring fee of 0.25% is applied to the original principal amount (not based on the declining par amount of the loan) for each year the SERAF loan remains outstanding to reimburse the City's General Fund for the staff resources necessary for the on-going administrative tasks associated with the SERAF loan .

The loan fees noted above total \$406,250 for 2009-2010. This figure recognizes that the monitoring fee will be prorated to reflect two months of monitoring efforts this fiscal year. These fees will initially be paid by the Low and Moderate Income Housing Fund and ultimately reimbursed by the Redevelopment Agency along with the SERAF loan plus associated costs. These fees are revenues to the General Fund for reimbursement of staffing costs associated with the loan origination, administration and monitoring of the SERAF loan since the expenditures are budgeted in the General Fund and have already been incurred or will be incurred by the end of the fiscal year.

It should be noted that due to other vacancy savings that have accumulated in the Finance Department this year, Finance's personal services expenditures are currently tracking within its existing appropriation by year-end. Therefore, it will not be necessary to appropriate the 2009-2010 SERAF fees to fund the associated 2009-2010 Finance personal costs for the initial administration of the SERAF loan. Instead, the General Fund revenue to be recognized in 2009-2010 for the reimbursement of the SERAF administration costs will be recommended to be used to offset the potential loss in Business Tax revenue associated with the incentives approved by City Council on March 16, 2010. The memorandum discussing the Business Tax incentive and associated budgetary appropriations is scheduled for Council consideration later on this month.

Associated Interest Costs for SERAF

All associated interest costs incurred to finance the SERAF loan will be added to the total value of the loan. The inter-fund loans will accrue interest annually based on the actual interest rate earned by the City's pooled investments and this value will be recorded as a receivable to each fund. The following two sources, however, will incur actual interest costs both monthly and quarterly:

- **Tax Allocation Bonds** – The Housing Department will be issuing \$40 million in Tax Allocation Bonds in order to fund affordable housing projects. Interest on this amount will be billed to the City on a quarterly basis and based on one month LIBOR plus a spread of 172 basis points.

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 6

- **Commercial Paper** – The Authority will be issuing \$25 million in Commercial Paper Notes to fund low and moderate income housing activities. The Notes will carry all-in variable interest rates estimated at 2.55% for 2009-2010 and 2.90% for 2010-2011.

These associated interest costs are estimated to be \$172,000 for the Tax Allocation Bonds and \$156,000 for the Commercial Paper in 2009-2010. The loan is anticipated to be funded in May 2010; therefore interest charges are only for two months in 2009-2010. The annual interest costs for 2010-2011 are estimated to be \$1,172,000 for the Tax Allocation Bonds and \$904,500 for the Commercial Paper.

As staff reported to Council on February 23, 2010, the total estimated interest costs for the SERAF loan is between 4 to 5%, which consists of third-party interest, banking fees and the City's loan fee. These costs compare favorably to the interest cost estimate of approximately 8.50% the Agency received in late 2008 for taxable bonds or the costs that may be associated with a new financing debt issue of the Agency. The actual interest costs may vary depending on financial market factors that affect interest rates, liquidity, competition, demand, and other global macro and micro economic factors.

Pending Litigation

The California Redevelopment Association has filed a lawsuit to challenge the State's budget action this year with regards to the SERAF payments. Should the CRA lawsuit prevail, at the time the lawsuit prevails (final judgment) the Agency will either immediately repay the City all outstanding SERAF loan amounts including incurred administrative costs, or if the funds have not yet been transferred, the SERAF loan terms will be null and void and the source funds will be entitled to use the specified funds for their original purposes.

Appropriation Actions

In order to implement this funding plan, appropriations must be established in each fund involved in the funding of the SERAF loan to the Agency. The recommendation of this memorandum is to establish appropriations in the following funds in 2009-2010:

Fiscal Year 2009-2010

LOANS TO THE AGENCY:

Subdivision Park Trust Fund (Fund 375)	\$3,000,000
Sewage Treatment Plant Connection Fee Fund (Fund 539)	\$5,000,000
Ice Centre Revenue Fund (Fund 432)	\$2,000,000
Low and Moderate Income Housing Fund (Fund 443)	\$52,000,000

REVENUES:

Tax Allocation Bonds (Fund 443)	\$40,000,000
Commercial Paper (Fund 443)	\$12,734,250

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 7

RESERVE:

Loan Origination and Monitoring Fees (Fund 443) \$406,250

INTEREST AND FEE EXPENSES:

Tax Allocation Bonds Interest (Fund 443) \$172,000

Commercial Paper Interest (Fund 443) \$156,000

Loan Origination and Monitoring Fees (Fund 443) \$406,250

Appropriations will be established and revenues recognized for these actions associated with the SERAF loan for 2009-2010. Future appropriation actions will be brought forward to the City Council as a part of the proposed budget process for 2010-2011.

EVALUATION AND FOLLOW-UP

This memorandum presents the set of recommendations related to City Council approval of the proposed appropriation ordinance and funding sources resolution amendments in the General Fund, Ice Centre Revenue Fund, Low and Moderate Income housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund to allow for the state mandated payment of the SERAF. These actions will be further discussed as a part of the City's 2010-2011 budget process.

PUBLIC OUTREACH

- ✓ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- 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. **(Required: E-mail and Website Posting)**
- 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. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The recommended actions meet Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This memorandum will be posted on the City's website for the April 20, 2010 Council agenda.

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 8

COORDINATION

This memorandum has been coordinated with the Environmental Services Department, Parks, Recreation and Neighborhood Services Department, Planning, Building and Code Enforcement Department, the City Attorney's Office, and the San José Redevelopment Agency.

FISCAL POLICY ALIGNMENT

This action is consistent with the Redevelopment Agency Budget approved on February 23, 2010. In addition, the actions recommended in this memorandum are consistent with the Council-approved Budget Principles to not issue long-term General Fund debt and to meet legal commitments and requirements.

COST SUMMARY/ IMPLICATIONS

2009-2010 Budget Action

1.	<u>LOANS TO THE AGENCY:</u>	
	Subdivision Park Trust Fund	\$3,000,000
	Sewage Treatment Plant Connection Fee Fund	\$5,000,000
	Ice Centre Revenue Fund	\$2,000,000
	Low and Moderate Income Housing Fund	\$52,000,000
	Total	\$62,000,000
2.	<u>REVENUES:</u>	
	Earned Revenue – Low and Moderate Income Housing Fund	\$52,734,250
	Total	\$52,734,250
3.	<u>RESERVE:</u>	
	Loan Origination and Monitoring Fee – Low and Moderate Income Housing Fund	\$406,250
	Total	\$406,250
4.	<u>INTEREST AND FEES:</u>	
	Low and Moderate Income Housing Fund:	
	Tax Allocation Bonds Interest	\$172,000
	Commercial Paper Interest	\$156,000
	Loan Origination and Monitoring Fee	\$406,250
	Total	\$734,250

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 9

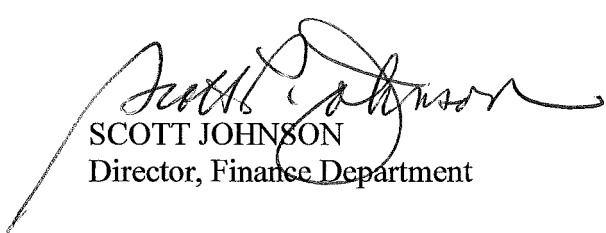
BUDGET REFERENCE


The table below identifies the funds and appropriations proposed to fund the actions recommended as part of this memo to fund the loan to the San José Redevelopment Agency.

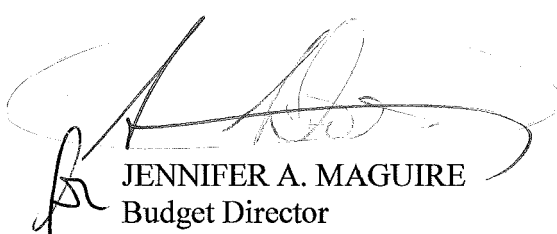
Fund #	Appn #	Appn. Name	Total Appn	Amt. for Loan	2009-2010 Adopted Budget	Last Budget Action (Date, Ord. No.)
432	8999	Ending Fund Balance	\$5,119,259	\$2,000,000	Operating Page XI - 49	02/09/10, Ord. No. 28698
539	8681	Reserve for Treatment Plant Expansion	\$11,324,635	\$5,000,000	Operating Page XI - 81	02/09/10, Ord. No. 28698
375	8845	Reserve: Future PDO/PIFO Projects	\$24,970,983	\$3,000,000	Capital Page V- 684	02/09/10, Ord. No. 28698

CEQA

Not a project.


SCOTT JOHNSON
Director, Finance Department


LESLYE KRUTKO
Director, Housing Department


JENNIFER A. MAGUIRE
Budget Director


HONORABLE MAYOR AND CITY COUNCIL

April 2, 2010

Subject: Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in the Ice Centre Revenue Fund, Low and Moderate Income Housing Fund, Sewage Treatment Plant Connection Fee Fund, and Subdivision Park Trust Fund

Page 10

I hereby certify that there will be available for appropriation in the Low and Moderate Income Housing Fund in the fiscal year 2009-2010 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$52,734,250.



JENNIFER A. MAGUIRE
Budget Director

For questions, please contact SCOTT JOHNSON, Director of Finance, at 408-535-7001.