

CITY OF YUBA CITY
STAFF REPORT

Date: February 2, 2010

To: Honorable Mayor & Members of the City Council; and
Honorable Chairman and Board of Directors

From: Administration

Presentation By: Steven C. Kroeger, Assistant City Manager

Summary

Subject: Loan from Low and Moderate Income Housing Fund to make payment to the State of California Supplemental Educational Revenue Augmentation Fund

Recommendation: 1) As the Agency Board of Directors, adopt a resolution authorizing a loan from the Agency's Low and Moderate Income Housing Fund to make the required payment to the County Supplemental Educational Revenue Augmentation Fund (SERAF).

2) As the City Council, direct staff to report to the Sutter County Auditor that the Agency intends to fund the full amount of the SERAF payment from the Low and Moderate Income Housing Fund loan.

Fiscal Impact: \$1,626,817. \$1,349,289 for FY 2009/10 and \$277,528 for FY 2010/11. The LMIHF Operating Fund has a current balance of \$3.2 million; after the SERAF payment of \$1,349,289 the balance would be approximately \$1.8 million. If Redevelopment Operating Funds are not adequate in FY 2010/11 and the additional \$277,528 of LMIHF were required in the following fiscal year, then the balance would be further reduced to approximately \$1.5 million.

Background:

The State of California's 2009 Budget Legislation included a statewide taking of \$2.05 billion in redevelopment funds: \$1.7 billion in FY 2009/10 and another \$350 million in FY 2010/11. The funds will be deposited into a "Supplemental" Educational Revenue Augmentation Fund (SERAF) to be distributed to schools to meet the State's Proposition 98 obligation to education. While the State claims that funding schools within a redevelopment project area furthers the purpose of redevelopment, the California Redevelopment Association (CRA) believes that the taking is unconstitutional and has filed a lawsuit to challenge the State's action. Notably, the CRA was successful in blocking a 2008 proposed shift of \$350 million in redevelopment funds.

Redevelopment Agencies are required to make payment into their respective county SERAF accounts by May 10th of the applicable fiscal year. The legislative body of the redevelopment agency must report to the county auditor by March 1st how it intends to fund the payment. Because of the pending litigation, CRA recommends not making payment prior to May 10th.

Analysis:

The required SERAF payments from Yuba City's Redevelopment Agency are \$1,349,289 for FY 2009/10, and \$277,528 for FY 2010/11. The Agency can use any legally available funds to make the SERAF payment. As a general rule, tax-exempt bond proceeds may not be used to make SERAF payments.

The City Finance Department has completed a cash flow analysis (attached) to determine the availability of funds to make the SERAF payment. A determination has been made that the Agency will not have sufficient funding in its Operating Fund to make the May 10th payment. This is largely due to the timing of existing debt service obligations (payment on outstanding bonds) and receipt of annual property tax increment. Therefore, staff has evaluated the availability of other "legally available funds."

The Health and Safety Code provides that if an Agency is unable to make its full SERAF payment for 2009-10, the Agency may borrow from the Agency's Low and Moderate Income Housing Fund (LMIHF). The LMIHF is the account into which 20% of the Agency's annual tax increment is required to be placed for the purpose of increasing, improving and preserving the community's supply of low and moderate income housing. The LMIHF loan must be repaid on or before June 30, 2015 and is not required to bear interest. The Agency's LMIHF account has sufficient funds to make the SERAF payment.

Given the fact that the Agency's Operating Fund will not have the required funds to make the SERAF payment, and that the Agency's Low and Moderate Income Housing Fund has "legally available funds," staff recommends that the Agency authorize a loan from the LMIHF to make the FY 2009-10 SERAF payment.

Fiscal Impact:

If the loan from the Agency's Low and Moderate Income Housing Fund (LMIHF) is approved, then the payment will be made from the LMIHF Operating Fund (since bond proceeds cannot be used for SERAF payment). The LMIHF Operating Fund has a current balance of \$3.2 million; after the SERAF payment of \$1,349,289 the balance would be approximately \$1.8 million. If Redevelopment Operating Funds are not adequate in FY 2010/11 and the additional \$277,528 of LMIHF were required in the following fiscal year, then the balance would be further reduced to approximately \$1.5 million.

Alternatives:

An agency that fails to timely make its SERAF payment is subject to the following:

- The agency may not adopt a new redevelopment plan, amend an existing plan to add territory, issue bonds, further encumber funds, or expend any moneys derived from any source except to pay pre-existing debt, contractual obligations, and pay not more than 75% of the amount expended on agency administration for the preceding fiscal year.
- This penalty would last until the required SERAF payments have been made.
- The agency must increase its housing set-aside by 5% on July 1, 2010 or July 1, 2011, whichever is applicable, for the remainder of the time the agency receives tax increment.

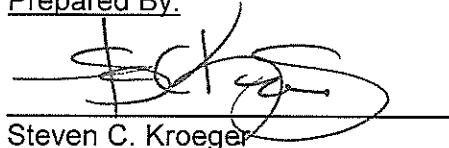
Recommendation:

Adopt a resolution authorizing a loan from the Agency's Low and Moderate Income Housing fund to make the required payment to the County Supplemental Educational Revenue Augmentation Fund

Attachments:

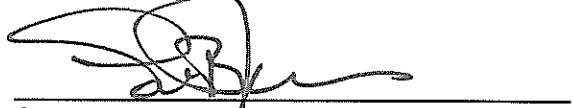
- Resolution
- RDA Analysis: Ability to Pay State SERAF

Prepared By:



Steven C. Kroeger
Assistant City Manager

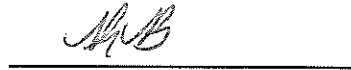
Submitted By:



Steven R. Jepsen
City Manager

Reviewed By:

Finance
City Attorney


OK per email

AGENCY RESOLUTION 10-_____

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE
CITY OF YUBA CITY AUTHORIZING A LOAN FROM THE AGENCY'S LOW AND
MODERATE INCOME HOUSING FUND TO MAKE THE REQUIRED PAYMENT TO
THE COUNTY SUPPLEMENTAL EDUCATIONAL REVENUE AUGMENTATION
FUND FOR FISCAL YEAR 2009-2010**

WHEREAS, the California State Legislature recently enacted ABX4-26, which requires redevelopment agencies to make certain payments to its county Supplemental Educational Revenue Augmentation Fund ("SERAF") in fiscal years 2009-2010 and 2010-2011; and

WHEREAS, the Redevelopment Agency of the City of Yuba City ("Agency") has been notified that its payment to SERAF for 2009-2010 will be \$1,349,289, which payment would be required to be made by May 10, 2010; and

WHEREAS, Health and Safety Code section 33690(c) provides that if an agency is unable to make its full SERAF payment for 2009-2010, the Agency may borrow from either the amount required to be allocated to the Agency's Low and Moderate Income Housing Fund for that fiscal year, or any moneys in that fund, or both, in order to make the full SERAF payment; and

WHEREAS, as a condition of borrowing from the Low and Moderate Income Housing Fund, the Agency must make a finding that there are insufficient other moneys to make the required payment; and

WHEREAS, Health and Safety Code section 33690(d) requires that by March 1, 2010, the City Council shall report to the county auditor as to how the agency intends to fund the SERAF payment;

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF YUBA CITY, AS FOLLOWS:

Section 1. The Agency finds that it does not have sufficient unencumbered funds to make the required SERAF payment for fiscal year 2009-2010. The revenue to be received by the Agency in fiscal year 2009-2010 is required for the payment of Agency debt service, Agency administration and existing programs and projects and is not available to make the SERAF Payment. This finding is supported by the information and documents provided by Agency staff to the Board of Directors.

Section 2. The Agency hereby authorizes a loan of \$1,349,289 (the "LMIHF Loan") from the Low and Moderate Income Housing Fund to the Agency for the sole purpose of making the SERAF payment for fiscal year 2009-2010. The LMIHF Loan shall bear no interest, and the Agency shall repay the LMIHF Loan to the Low and

Moderate Income Housing Fund on or before June 30, 2015. The LMIHF Loan shall not be made until such time that the Agency is required to pay the SERAF Payment into the Sutter County SERAF.

Section 3. The Agency requests that the City Council report to the Sutter County Auditor that the Agency intends to fund the full amount of the SERAF payment from the LMIHF Loan.

PASSED AND ADOPTED by the Redevelopment Agency of the City of Yuba City this 2nd day of February, 2010, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair

ATTEST:

Secretary

RDA Analysis
Ability to Pay State SERAF \$ May, 2010

		Cash in Checking Account	Cash w/ FA-Bond Proceeds
<i>Project Funds:</i>			
RDA CIP Fund	305	\$ 542,463.96	\$ 4,987,997.04
<i>Operating Funds:</i>			
RDA Operating Fund	201	\$ (286,452.52)	
March, 2010 Debt Service:			
2007 TABs		(408,127.50)	
2004 TABs		(440,862.50)	
CIEDB Loan		(13,717.83)	
Sub-Total Cash Available After March D/S		<u>(1,149,160.35)</u>	
Revenues FY 09-10		3,121,900.00	
Less: Pass Throughs		(750,000.00)	
Net Remaining Operating Cash 6/30/10		<u>\$ 1,222,739.65</u>	
<i>Estimated Cash Available as of Date SERAF Payment is due to County:</i>			
Cash as of 3/1/10 after D/S		\$ (1,149,160.35)	
First Installment (02/02/09 used as Estimate)		1,233,365.77	
Cash Available after Debt Service Due Date		<u>\$ 84,205.42</u>	