



June 15, 2020

The Honorable Kevin Faulconer
Council President Pro Tem
Councilmember, District 2
The City of San Diego
City Administration Building, 10th Floor
202 C Street, MS 10A
San Diego, California 92101

Re: *Responses to Questions from April 27, 2010 City Council Hearing Regarding the Centre City Development Corporation's Tax Increment "Cap" Being Increased*

Dear Councilmember Faulconer:

The following is in response to your memorandum dated April 27, 2010. Your inquiries are listed verbatim and our responses follow in italics.

Current Tax Increment Status and Uses

1. Can you please explain how tax increment is currently collected, the difference between property tax and tax increment, and how tax increment affects the General Fund?

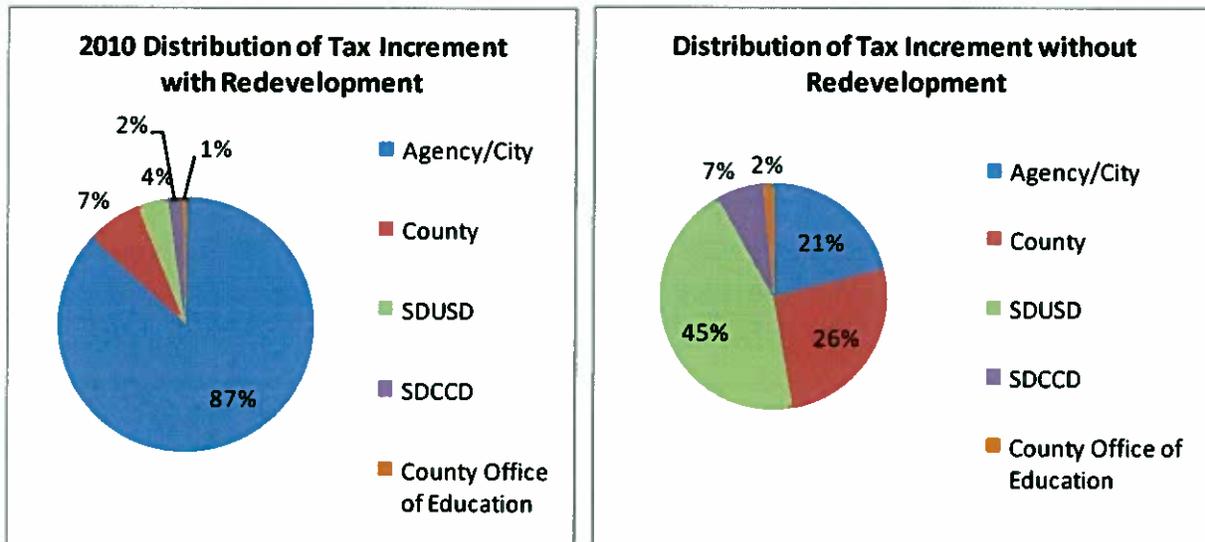
When a project area is formed, the County determines the total assessed value of all the properties within a redevelopment project area. This amount is commonly called the base assessed value, or ("Base Year") value. Tax Increment represents the increase in property taxes over the Base Year generated within a redevelopment project area. The property tax rate does not increase when a project area is formed, only the distribution of the property tax revenue changes.

All property tax revenue is collected by the County Tax Collector and then distributed to each of the tax sharing entities. Base Year tax revenue is distributed to the following entities: the San Diego Unified School District, the County Office of Education, the City of San Diego, the San Diego Community College District, the County of San Diego and the County Water Authority.

The portion of property tax revenue generated from the increase in assessed value above the Base Year is distributed to the Redevelopment Agency (“Agency”). The amount of Base Year tax revenue, including up to two additional percent annually based on a statewide inflation factor, continues to be allocated to the original taxing entities, including the City’s General Fund.

Properties are typically reassessed at a higher value when one of the following occurs: (1) new construction, (2) rehabilitation or expansion of an existing building, (3) sale of a property, or (4) a ground lease is recorded on a property.

The charts below contrast the approximate distribution of 2010 tax increment revenue to the taxing entities, with and without redevelopment. Without redevelopment, a significantly larger share of the tax increment would be distributed to the taxing entities.



- above percentages will change in future years according to tax sharing agreements between the Agency and the taxing entities

Once redevelopment efforts end and all obligations of the Agency are fully met, the annual property tax increment revenue is redistributed to the original taxing entities as indicated in the above right chart.

2. What are the legal uses of tax increment funds?

According to California Community Redevelopment Law (“CRL”), generally tax increment funds can be used for capital projects for the purpose of removing blight. These projects may include property acquisition and assembly; public infrastructure improvements including sidewalks, street lights, and parks; rehabilitation; historic preservation; and public facilities and

buildings (excluding city halls) such as fire stations and parking facilities. 20% of the tax increment, by law, must be set aside for low and moderating income housing funds which must be used to assist in constructing and preserving affordable housing.

The list below illustrates more specific permitted uses of tax increment for furthering the objectives related to redevelopment (this list, consistent with CRL, is not exhaustive and has been condensed to include only those purposes that are likely to be applicable to the Centre City project area).

- *The alteration, improvement, reconstruction, modernization or reconstruction of existing structures in the Centre City project area.*
- *Improvements to public spaces and areas surrounding buildings such as streets, public or private recreation areas, parks, playgrounds, sidewalks, utilities, street medians, traffic signals, public transit, street lights, etc.*
- *Site acquisition via purchase, lease or eminent domain for land assembly for the purposes of redevelopment. Following such acquisition, tax increment may be used to maintain, manage or repair (including remediation of hazardous materials) such property until such time the property is sold, leased or redeveloped.*
- *Improving, increasing or preserving emergency shelters for homeless persons. These shelters may be located within or outside the project area.*
- *Preserve, construct or rehabilitate low and moderate income housing units within or outside of the project area (provided certain findings can be demonstrated). Such activities may be accomplished through site purchase or lease or site acquisition, construction or rehabilitation loans.*
- *Planning, studies and analyses related to the short and long range planning of the project area to address zoning, design, demographics, socio-economic forecasts, land use, health and safety.*
- *Loans for the preservation and rehabilitation of historic sites and structures and the renovation of unreinforced masonry buildings.*
- *Administration and overhead of managing the redevelopment and planning activities associated with the project area.*
- *Graffiti removal.*
- *Construct platforms, foundations or other like structural forms for the utilization of air rights for buildings for residential, commercial or industrial uses owned by private entities.*
- *Consulting services related to economic development for activities such as business attraction, marketing and communication activities including public engagement and education related to redevelopment efforts, and encouragement of investment in the project area.*
- *Acquire land or construction buildings within the project area to be owned by a public entity for which no other reasonable means of financing are available (with the exception of a City Hall or other facility which does not primarily benefit the project area).*

- *Site acquisition, construction and rehabilitation of public parking structures.*
 - *Land acquisitions that may be used for sale to private developers for hotel, office, retail or other types of development.*
 - *Site Improvements, Demolition and Relocation Assistance and Payments*
 - *Community Outreach Expenses (including PAC's and CAC's)*
 - *Storefront rehabilitation loan programs.*
 - *Expansion and rehabilitation loan programs for non-profit service providers, arts and cultural institutions located within the project area.*
 - *Project-based rental housing vouchers for low and moderate-income persons and households.*
 - *Debt service on tax allocation bonds or other debt incurred by the Agency for activities within the project area.*
3. Can tax increment funds be used to build homeless service centers in areas located outside of the Centre City project area?

Yes. Tax increment can be used to build homeless centers provided certain findings certify that the housing portion of the service center would benefit the project area. Low/Moderate Housing Funds may be used for site acquisition, rehabilitation or construction of any interim or permanent housing portion of such a facility. Funding for capital improvements related to any services portion of the facility would not be permitted for projects located outside of the project area. For additional analysis and discussions regarding this matter, please see the attached memorandum from the City Attorney's office, dated May 21, 2010. (Attachment A)

4. What uses of tax increment funds are not allowed?

*Tax increment funds **cannot** be used for operations and maintenance activities or other expenses that would ordinarily be paid for by the City such as:*

- *Normal maintenance or operations of buildings, facilities or other improvements such as parks, streets, sidewalks and utilities that are publicly owned.*
- *Site acquisition, construction, rehabilitation or design of a City Hall.*
- *Redevelopment activities for projects located outside of the redevelopment project area (with the exception of housing for low and moderate income individuals and households if certain findings can be demonstrated and for public improvements outside the project area if contiguous, otherwise much more difficult findings.)*
- *The new construction of market rate residential, commercial or industrial buildings.*
- *Maintenance or operations of homeless shelters, social service providers, or housing for low and moderate-income persons or households.*
- *Payment of any obligations on behalf of the City or for any purposes that are typical general facilities or services provided by the City such as the operations and maintenance of police, fire, trash removal, utility services, libraries, etc.*

- *Expenditures to lure an automobile dealer or big box retailer from another city within the same market area*

Process – Contracts, Consultants and Other Taxing Entities Associated with this Action

1. Can you please detail the services to be provided through these contracts, and list the consultants and sub consultants associated with these contracts?

An increase to the Centre City project area tax increment “Cap” requires an amendment to the redevelopment plan. The process to amend the redevelopment plan may take an estimated 14-16 months to complete. The first step in the plan amendment process is a blight study. The purpose of the study is to determine if significant blight remains within the boundaries of the project area and if so, how the increased tax increment funds may be used to eliminate the remaining blight and fulfill the goals of the redevelopment plan. A representative example of a similar study will be distributed to the Agency Board under separate cover.

The following firms, including their respective roles and fees, are proposed to participate in the blight study and the subsequent reporting and filings required to process the plan amendment.

Kane, Ballmer & Berkman (KMA) – estimated amount \$95,000

Kane, Ballmer & Berkman – Agency Special Counsel providing legal review of blight findings and financial feasibility; preparation of notices and advice on noticing requirements; consultations with taxing agencies; legal review of plan amendment Preliminary and Final Reports; preparation of City Council resolutions and ordinances; participation at public meetings; environmental review including CEQA documentation; review joint public hearing staff reports.

KMA – estimated amount \$286,000

3D Visions (3DV), subconsultant to KMA will conduct a parcel-level survey to determine if significant blight remains within the Project Area (approximately 5,900 parcels to be studied); document unsafe or unhealthy conditions for persons to live or work based upon a combination of serious building code violations; document factors that hinder the economically viable use or capacity of buildings or lots.

KMA will oversee and coordinate work by 3DV for completion of blight study; download secondary data to expand upon and create maps depicting key blighting conditions; document the economic indicators that demonstrate significant blighting conditions (property sales and lease rates analyses, vacancy rates, crime impacts to public safety and business viability, homelessness, etc.); analyze financial feasibility of amending existing Redevelopment Plan;

documentation of anticipated expenditures and a projection of potential financing sources, including tax increment revenues, for implementation of a specific redevelopment program; preparation of a cash flow projection over the anticipated life of the Project Area to demonstrate project feasibility.

KMA will identify the taxing agencies for the Project Area; prepare one draft and one final version of the Preliminary Report to include the following: summary of the findings of the Technical Studies; description of the projects and programs proposed to remove blight; reasons for amending the Redevelopment Plan; explanation of why the private sector acting alone or without redevelopment could not redevelop the area; why the blighting conditions are a burden on the community; a map identifying the location and type of blighting conditions, the areas that are no longer blighted, the necessary and essential parcels; the proposed method of financing (the Financial Feasibility Analysis) including amounts projected to be deposited in to the Low and Moderate Income Housing Fund and amounts to be paid to the affected taxing agencies; an amendment to the Five-Year Implementation Plan; and a new neighborhood impact report.

KMA will prepare one draft and one final version of the Report to the City Council prepared in accordance with the requirements of CRL Sections 33333.11(h) and 33451.5; incorporate the evidence from which the City Council may make certain findings upon adoption of the Amendments; provide a summation of the process followed in the amendment adoption process as required in the CRL; a summary of consultations with the affected taxing entities, including the agency's written response to any concerns raised in writing by any affected taxing entities, residents or community organizations; and a summary of consultations with residents and community organizations.

KMA will prepare an adoption schedule and coordinate with staff, the EIR consultant, civil engineer and legal counsel on upcoming actions; attend meetings with the County (or other affected taxing agencies) to discuss issues of blight and financial feasibility; assist in conducting public information meetings; attend meetings or make presentations to the Agency, City Council, CCDC Board and/or Planning Commission upon request.

SCS Engineers – estimated amount \$50,000:

SCS will provide information related to the presence of hazardous materials in the project area that may impede or make redevelopment infeasible or create health and safety concerns. Such services may include:

- identify properties within the project area that are known to use hazardous materials and petroleum products, generate hazardous waste, have had violations of the*

- hazardous waste control law, or have had releases;*
- the history and on-going issues of contamination in the project area; and*
- specific properties within the project are that are known to be contaminated.*

Other Anticipated Expenses – geotechnical, public health, mailings, notices, etc. – estimated amount \$20,000

Contingency - \$49,000

Total Estimated Budget - \$500,000

2. Will any environmental documents need to be prepared in accordance with this action?

No. The “action” under consideration, to authorize staff to begin the preliminary actions in connection with the redevelopment plan amendment, is an administrative action and this activity is not a “project” under the definition set forth in CEQA Guidelines Section 15378. Therefore, pursuant to CEQA Guidelines Section 15060(c)(3), the activity is not subject to CEQA. This “action” does not include required City Council or Agency actions to actually amend the redevelopment plan, which will be brought forward in the future if the redevelopment plan amendment is proposed, at which point environmental review will be completed as necessary.

3. What is the likelihood of lawsuits being filed during this process?

Attached hereto is correspondence from Coast Law Group challenging whether CEQA review is necessary for the “action” currently being considered by the Agency (Attachment B). It is impossible for CCDC to predict whether other challenges will emerge as the study and plan amendment process continue. In a redevelopment area adoption process, a lawsuit may be filed by a taxing entity or a private property owner that may challenge the city’s designation of the area being identified as blighted. We cannot predict if other entities may file in connection with a redevelopment plan amendment. However, CCDC will ensure that all legally required procedures and requirements to amend the redevelopment plan will be followed and complied with.

4. Can you please describe the process for determining if blight conditions exist?

- A parcel-by-parcel onsite survey is conducted to document and assess conditions of physical and economic blight. In addition, secondary sources such as real estate and economic reports, government and private databases, and other data sources are used to identify and describe conditions that may cause or contribute to blighting conditions.*

- *Physical blight may be defined as unsafe buildings such as unreinforced masonry or those that have repeated code violations, buildings that are deteriorated or dilapidated, presence of hazardous materials, vulnerability to seismic activity, and obsolete design or construction given present general plan, zoning, or other development standards.*
- *Economic conditions are evaluated within the project area including vacancy rates, flight of businesses and residents, residential overcrowding, environmental and socio-economic data, lease rates, homelessness, crime statistics, property values, market conditions and other factors to determine if investment in the area is impaired.*

A detailed report on the blighting conditions is produced containing site photographs, maps, and supporting research data describing the conditions in the project area, how these conditions cause blight and are "substantial" and how they warrant redevelopment to alleviate such conditions. The report will provide some of the key documentations that the Agency may use to make its finding that there is significant remaining blight in the project area.

5. Is Downtown more or less blighted than other areas of the City?

"Blight" is a legally defined term and is subjectively determined following a thorough of study of a specific geographic area. There are portions of the City that have commissioned blight studies, determined that blight exists, and have formed redevelopment project areas. CCDC cannot provide an opinion as to the comparative nature of downtown's blight contrasted with other neighborhoods. The Agency, acting on behalf of the entire City, is responsible for identifying blight and considering the formation of redevelopment project areas.

6. What is the status of discussions with the other affected taxing agencies?

All of the taxing entities have been briefed on the procedures to increase the "Cap", including the studies and reports currently before the Agency for consideration, and have expressed no objection to the study process.

7. Can this study include the potential use of tax increment funds for affordable housing in areas outside the Centre City project area?

Yes. CRL provides for the expenditure of Low/Moderate Housing funds for the acquisition, preservation and production of affordable housing located outside of the Centre City Project Areas if findings of benefit to the Project Area can be determined and certified by the Agency. If tax increment is spent on units located outside of the Centre City Project Area, the Project Area only receives up to 1/2 credit for each unit produced toward its 15% affordable housing requirement.

8. How can we address issues of homelessness, economic development, job growth and other social concerns by or with increasing the "CAP"?

An increase to the tax increment "Cap" will generate significant additional dollars in 20% Low/Moderate Housing funds which may be used to acquire, construct, rehabilitate or preserve housing units for extremely low income persons and households (below 30% Area Median Income) such as those who are homeless or at risk of becoming homeless. Such units may be in the form of permanent supportive housing or interim housing. Such units may be located within or outside of the Centre City Project Area.

Project-based housing vouchers may also be funded as an interim measure until permanent units can be developed.

An increase to the "Cap" may also generate significant additional funds that may be applied toward economic development activity. Permitted uses of tax increment toward economic development, including activities related to business attraction and retention, job growth, business incubation and job training and are outlined in the opinion letter drafted by Kane Ballmer Berkman (Attachment C). CCDC staff will be providing an outline of proposed downtown economic development activities and objectives to the Public Safety and Neighborhood Services Committee of the City Council in late June. The Agency would have final approval of the amount of increased tax increment applied toward economic development as part of the annual Agency budget process.

Impacts to the General Fund

1. What is the annual amount Downtown is currently generating in sales tax and transient occupancy tax?

The estimated annual TOT generated from the downtown is approximately \$50.3 million. The estimated annual sales tax generated from downtown is approximately \$8.0 million.

2. What are the projected revenues available for infrastructure projects?

Under the existing tax increment limit, there is assumed to be approximately \$386 million available through fiscal year 2024 for projects. The Agency will, at its discretion, determine how much of that amount will be spent on infrastructure through the annual budgetary process.

3. What is the amount of outstanding infrastructure projects currently identified in the Downtown Community Plan?

Attachment D provides a listing of various projects identified in the Downtown Community Plan that may be implemented over the next 20 years. The cost could approximate \$1.6 billion. This list is not all inclusive and a thorough analysis will be performed as part of the report that will be prepared as part of the "action" under consideration by the Agency.

4. If the CCDC "Cap" is not increased, what funding sources are available to complete the projects identified in the Downtown Community Plan? (General Fund/DIF)

After the tax increment "Cap" is reached, any Downtown Community Plan projects not completed will need to be funded by any resources available to the City including Development Impact Fees, any developer proceeds and the General Fund.

5. Can the City Council pass a Resolution directing CCDC to not construct any new projects that result in a negative impact to the City's General Fund?

Yes. The Agency, as governed by the City Council, the sole member of the Corporation, may be precluded from entering into any agreements which have an adverse impact on the City's General Fund.

6. How much is the City currently paying for the Convention Center Phase 2 bonds? Can this be paid for with CCDC funds if the "Cap" is lifted?

The debt service on the Convention Center is approximately \$13.7 million annually, and is funded by the City of San Diego and the Port of San Diego. The Port of San Diego pays the City \$4.5 million towards the debt service each year until June 30, 2014, which leaves a remaining obligation of \$9.2 million. Subsequent to June 30, 2014, the City will be responsible for the entire \$13.7 million debt service payment through the maturity of the bonds in 2028.

CCDC, as a non-profit entity, which acts as an agent of the Redevelopment Agency, is unable to fund this obligation; however, pursuant to California Redevelopment Law, if certain findings are made, the Agency could. An attorney-client privileged legal opinion from the City Attorney's Office and Kane, Ballmer & Berkman (special counsel to the Agency) was distributed June 10, 2010 to the Executive Director and Board of Directors of the Agency addressing this matter.

7. What is the total amount of outstanding debt associated with the Petco Park bonds? Can CCDC pay all remaining outstanding debt associated with Petco Park?

The total amount of principal outstanding on the Petco Park bonds is approximately \$146 million, however annual debt service including interest is \$11.3 million and is required to be

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paid through 2032, which totals \$249 million. The amount from 2014 through 2032 is \$215 million, which is a current obligation of the City's General Fund.

CCDC, acting at the direction of the Agency, and after the appropriate findings are made, could use tax increment to pay for the Ballpark debt service after 2013. The Agency's Centre City Project Area is currently scheduled to pay the bond debt service through fiscal year 2013.

8. Do the proposed CDBG repayments to the City include any debt forgiveness?

The item relating to CDBG repayments is scheduled to be heard on June 21, 2010 by the Agency/ City and includes a proposal to forgive \$144 million allocated across the Agency's project areas. Of that amount, \$55.3 million is related to the Centre City Redevelopment Project Area.

9. Is the City subjecting any General Fund dollars that are protected under Prop 1A to raids from the State of California if they are collected by the Redevelopment Agency rather than the City?

California Proposition 1A was approved by the state electorate in 2006. The proposition protects local property tax, sales tax and Vehicle License Fee revenues by prohibiting the Legislature from taking any action that would:

- *Reduce the local Bradley Burns Uniform Sales & Use Tax rate or alter its method of allocation,*
- *Decrease Vehicle License Fee revenue from the 0.65% rate without providing replacement funding to cities and counties, and*
- *Shift property taxes from cities, counties or special districts to the schools or any other non-local government function except under certain circumstances.*

According to the IBA's estimate, if the tax increment "Cap" were not increased, the City would begin receiving significantly larger payments of property tax revenue to the General Fund beginning in 2024. Such payments would likely be protected from a re-allocation by the Legislature assuming Proposition 1A remains in effect. If the "Cap" is increased, a portion of those revenues would remain within the Centre City Project Area and could be in jeopardy of being re-apportioned by the Legislature (pursuant to ERAF) to solve future state budget shortfalls if the state appellate court does not find the recent ERAF funding to be unconstitutional. However, a measure is likely to qualify for the November 2010 ballot that, if passed by a simple majority of the voters, would prevent the Legislature from re-allocating local redevelopment funds to the state.

10. How does the City plan to maintain parks in redevelopment project areas?

In the past, the Redevelopment Agency has created a variety of maintenance mechanisms, including Landscape & Maintenance Agreements with adjoining developments (sections of Linear Park/Martin Luther King Promenade maintained by City Front Terrace, Harbor Club, Omni Hotel, Hilton Gaslamp Hotel, and others; Children's Museum Park maintained by Children's Museum). In addition, the Downtown Partnership's Property Based Improvement District (PBID) maintains the Children's Park Civic Pond and a share of the Gaslamp Quarter Park) and the Little Italy Association's PBID maintains the plaza area of Amici Park.

CCDC will recommend that the Agency authorize CCDC to execute a consultant contract for the preparation of the Downtown Parks Master Implementation Plan, which includes an analysis of innovative strategies for raising and sustaining funds for not only the construction of future parks, but also for the long-term maintenance of parks. These sources may include, but are not limited to, development fees, business improvement or maintenance assessment districts, concessions, underground parking revenues, sponsorship and naming rights, and partnerships with corporations and/or neighborhood groups.

11. How will this affect the construction and maintenance of parks throughout other parts of the City?

The "Cap" study will have no effect on the construction and maintenance of parks in other neighborhoods of the City. CCDC will soon be presenting to the Agency a consultant contract to prepare a Downtown Parks Master Plan which will include options to finance the long-term operations and maintenance of public parks which could be adaptable to other parts of the City.

"Cap" Increase in Relation to a Downtown Stadium Location for the San Diego Chargers

1. What was the purpose of the \$160,000 contract relating to a proposed San Diego Chargers stadium?

The purpose of the contract with Evolution Media was to provide insight and analysis of recent stadium transactions, provide information and trends on NFL financing mechanisms and a list of options for financing and relocating the Qualcomm Stadium to downtown.

2. How does this action relate to a proposed downtown Chargers stadium?

The analysis will establish certain financial facts to help the decision makers determine if building or assisting the redevelopment of the proposed MTS site into a venue for the Chargers is financially feasible.

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3. Is this "Cap" increase a necessary component for a future Chargers stadium?

Yes. If a stadium on the MTS site is pursued and the project wins voter approval, then an increase would be necessary to facilitate the Agency to finance and/or assist the financing of the redevelopment of the MTS site for a stadium. A CAP increase is also necessary, irrespective of the stadium, to implement the Community Plan and prepare downtown for the growth it is expected to experience.

4. When was the possibility of lifting CCDC's "Cap" first discussed?

In March of 2009 CCDC staff was directed by the Agency to provide a report on the process of moving forward with an amendment to the Centre City Redevelopment Plan for an increase to the "Cap". See Attachment E.

5. When did discussion of a possible Downtown stadium location for the Chargers begin?

October 2009.

Sincerely,



Frank J. Alessi
Executive Vice President &
Chief Financial Officer

FJA:lly

Attachments: A – City Attorney memo dated May 21, 2010
B – Coast Law Group letter dated April 27, 2010
C – City Attorney report dated June 14, 2010
D – Centre City & Horton Plaza Project Areas Summary of Projects
E – Corporation letter dated May 26, 2009

Pc: Honorable Mayor Jerry Sanders
Honorable Councilmembers
Fred Maas, Chair, CCDC Board of Directors

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 533-5800

DATE: May 21, 2010

TO: Executive Director and the Board of Directors of the Redevelopment Agency of the City of San Diego

FROM: City Attorney

SUBJECT: Use of Redevelopment Agency Funds for Social Services Programs or Operations of Homeless Shelters

INTRODUCTION

The Redevelopment Agency of the City of San Diego (Agency) has funded capital improvements and other allowable costs associated with increasing, improving, and preserving homeless shelters and transitional housing serving the homeless within the City of San Diego (City). Agency staff is considering expanding its financial assistance to include funding social service programs and operations of homeless shelters within the City. Agency staff has asked this Office to provide a legal opinion on the use of Agency funds for social service programs and operations of homeless shelters.

QUESTION PRESENTED

May the Agency use Agency funds for social service programs or operations of homeless shelters?

SHORT ANSWER

No. The Agency may not use Agency funds for social service programs or operations of homeless shelters.

ATTACHMENT A

ANALYSIS

I. REDEVELOPMENT IS FINANCED BY TAX INCREMENT FUNDS

The Agency is a public body, corporate and politic, that exercises governmental functions and has the powers prescribed to it in the California Community Redevelopment Law (Community Redevelopment Law). Cal. Health & Safety Code §§ 33100, 33122.

The Community Redevelopment Law is set forth at California Health and Safety Code sections 33000 et seq. Since the Agency is a creature of statute, the Agency's authority to act and spend funds must be provided in the Community Redevelopment Law. The legal justification for use of the extraordinary public powers authorized by the Community Redevelopment Law is the elimination of blight. *Berman v. Parker*, 348 U.S. 26 (1954).

The primary funding source relied on by the Agency to finance its activities under the Community Redevelopment Law is tax increment revenue. Tax increment revenue is the Agency's ability to receive and spend a portion of property tax revenues from the increase in assessed value of real property that has occurred after adoption of a redevelopment plan for a project area. Cal. Health & Safety Code §§ 33670, 33678. Tax increment revenue is used "to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project." Cal. Health & Safety Code § 33670(b); Cal. Const. art. XVI, § 16.

II. TAX INCREMENT FUNDS MUST BE SPENT ON REDEVELOPMENT ACTIVITY

Tax increment revenue must be spent on redevelopment activity, which includes redevelopment as prescribed in California Health and Safety Code sections 33020 and 33021 that primarily benefits the project area. Cal. Health & Safety Code § 33678(a) and (b).

Redevelopment is defined, in part, as the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and the provision of those residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them. Cal. Health & Safety Code § 33020.

Additionally, redevelopment is defined to include: (a) the alteration, improvement, modernization, reconstruction, or rehabilitation, or any combination of these of existing structures in a project area; (b) the provision for open-space types of use, such as streets and other public grounds, space around buildings, public or private buildings, structures and improvements, and improvements of public or private recreation areas and other public grounds; and (c) the replanning or redesign or original development of undeveloped areas that are stagnant

or improperly utilized or that require replanning and land assembly for reclamation or development in the interest of the general welfare. Cal. Health & Safety Code § 33021.

Neither section 33020 nor section 33021 of the California Health and Safety Code provide that redevelopment includes the provision of social service programs or operations of a homeless shelter or any other such facility or the provision of any similar type of services.

III. LOW AND MODERATE INCOME HOUSING FUNDS MUST BE USED TO INCREASE, IMPROVE, AND PRESERVE AFFORDABLE HOUSING

Not less than 20 percent of all taxes allocated to the Agency pursuant to California Health and Safety Code section 33670 shall be used by the Agency for the purposes of increasing, improving, and preserving the City's supply of low- and moderate- income housing available at affordable housing cost. Cal. Health & Safety Code § 33334.2(a).

Funds required to be used for affordable housing pursuant to California Health and Safety Code section 33334.2 "shall be held in a separate Low and Moderate Income Housing Fund until used." Cal. Health & Safety Code § 33334.3(a). These restricted funds are commonly referred to as the "Housing Funds," while the remaining tax increment funds received by the Agency are commonly referred to as the "Non-Housing Funds."

"In carrying out the purposes of this section, the agency may exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low- and moderate-income persons or families . . ." Cal. Health & Safety Code § 33334.2(e). California Health and Safety Code Section 33334.2(e) lists specific purposes by which the Agency may use Housing Funds to increase, improve, and preserve affordable housing in the City which include, without limitation, acquiring or improving real property, rehabilitating building or structures, constructing buildings or structures, acquiring buildings or structures, providing subsidies to, or for the benefit of, extremely low, very low, low- and moderate- income persons, families, or households, and preserving the availability to lower income households of affordable housing in housing developments. Section 33334.2(e) does not, however, identify social service programs or operations as an appropriate use of Housing Funds.

Further, the Community Redevelopment Law allows for limited expenditures of Housing Funds toward planning and general administrative activities associated with the development, improvement, and preservation of affordable housing to the extent such expenses are not disproportionate to the amount actually spent by the Agency for the costs of production, improvement, or preservation of that housing. Cal. Health & Safety Code § 33334.3(d). The Agency is required by California Health and Safety Code section 33334.3(d) to determine annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate- income housing.

The planning and general administrative costs which may be paid using Housing Funds are those expenses incurred by the Agency which are directly related to the programs and activities authorized under subdivision (e) of California Health and Safety Code section 33334.2 and are limited to the following: (a) costs incurred for salaries, wages, and related costs of the Agency's staff or for services provided through interagency agreements, and agreements with contractors, including usual indirect costs related thereto; and (b) costs incurred by a nonprofit corporation which are not directly attributable to a specific project. Cal. Health & Safety Code § 33334.3(e).

In accordance with California Health and Safety Code section 33334.3(e), planning and general administrative activities appropriately funded using Housing Funds are related to those activities conducted by the Agency itself or on behalf of the Agency and directly related to the Agency's programs and activities that increase, improve, and preserve the City's affordable housing. Section 33334.3(e) does not identify planning and general administrative activities related to third party social service programs or operations as an appropriate use of Housing Funds.

The Community Redevelopment Law's intent to limit the Agency's authority to use tax increment funds for administrative expenses is further evidenced in California Health and Safety Code section 33678 which specifically prohibits the Agency from using tax increment revenue for the purpose of paying for employee or contractual services of any local governmental agency unless those services are directly related to redevelopment as defined in California Health and Safety Code sections 33020 and 33021 and the powers established in the Community Redevelopment Law. Cal. Health & Safety Code § 33678(b).

The Agency has used Housing Funds for the construction of transitional housing serving the homeless, homeless shelters and other allowable costs for the purposes of increasing, improving, and preserving affordable housing. The Community Redevelopment Law as codified, however, has created some confusion on a redevelopment agency's authority to use Housing Funds toward increasing, improving, and preserving affordable housing in the form of homeless shelters. Specifically, the codified version of a portion of special legislation set forth of California Health and Safety Code section 33021.1 states:

In a city and county, redevelopment includes improving, increasing, or preserving emergency shelters for homeless persons or households. These shelters may be located within or outside of established redevelopment project areas. Notwithstanding any other provision of law, only redevelopment funds other than those available pursuant to Section 33334.3 may be used to finance these activities.

California Health and Safety Code section 33021.1 was enacted pursuant to Senate Bill No. 1026 (SB 1026) in part at the request of the Redevelopment Agency of the City and County of San Francisco, which is a redevelopment agency serving jointly the City and County of San

Francisco. When section 33021.1 was codified into the Community Redevelopment Law, an important portion of SB 1026 was not codified, namely Section 3 which states:

However, nothing in this act or Section 33201.1 of the Health and Safety Code shall be deemed to authorize or limit, or in any way modify any authority of a redevelopment agency, other than a redevelopment agency in a city and county, to improve, increase, or preserve emergency shelters for homeless persons or households, either inside or outside a project area, from funds available pursuant to Section 33334.3 of the California Health and Safety Code or any other source.

Therefore, Section 33021.1 does not apply to redevelopment agencies established by a city only, like the Agency, as opposed to a redevelopment agency established jointly by a city and a county. As such, the Agency is authorized to use Housing Funds for the construction, rehabilitation, or preservation of homeless shelters provided that the homeless shelters serve to increase, improve, and preserve affordable housing.

In addition to California Health and Safety Code section 33334.2, California Health and Safety Code section 33449 provides that:

[N]otwithstanding Section 33440, or any other provision of law, an agency may, inside or outside any project area, acquire land, donate land, improve sites, or construct or rehabilitate structures in order to provide housing for persons and families of low or moderate income, as defined in Section 41056, and very low income households, as defined in Section 41067, and may provide subsidies to, or for the benefit of, such persons and families or households to assist them in obtaining housing within the community . . . nothing in this section shall empower an agency to operate a rental housing development beyond such period as is reasonably necessary to sell or lease the housing development.

Thus, although California Health and Safety Code section 33449 allows the Agency to acquire land, improve sites, construct or rehabilitate structures, or provide subsidies in order to provide affordable housing, section 33449 does not include the authority for the Agency to fund social service programs and operations of homeless shelters. In fact, section 33449 specifically limits the Agency's ability to operate a rental housing that the Agency owns itself for so long as necessary to sell or lease the housing development. Cal. Health & Safety Code § 33449.

From a review of the Community Redevelopment Law and the Agency's authority in connection with affordable housing, it is clear that, except for directly related administrative expenses, such authority involves either physical construction or rehabilitation of affordable housing or direct

action to increase available affordable units by providing subsidies or purchasing covenants. None of the Agency's authority includes, or can be interpreted to include, social service programs or operations of a homeless shelter.

IV. NON-HOUSING FUNDS MAY NOT BE USED TO FUND SOCIAL SERVICE PROGRAMS OR OPERATE HOMELESS SHELTERS

California Health and Safety Code section 33334.2(a) requires not less than 20 percent of all taxes allocated to the Agency pursuant to California Health and Safety Code section 33670 be deposited into the Agency's Low and Moderate Income Housing Fund. Thus, the Agency is permitted to deposit more than 20 percent of tax increment revenue, including portions of its Non-Housing Funds, into the Low and Moderate Income Housing Fund. If so deposited by the Agency, the Agency must treat these funds as Housing Funds and comply with the provisions set forth in the Community Redevelopment Law pertaining to the use of Housing Funds.

The Community Redevelopment Law provides certain authority for the Agency to assist with the construction or rehabilitation of residential and commercial buildings using Non-Housing Funds. Specifically, the Agency may fund the construction or rehabilitation of publicly owned buildings pursuant to California Health and Safety Code sections 33445 and 33679, provide commercial rehabilitation loans pursuant to California Health and Safety Code section 33444.5, provide residential construction and rehabilitation loans pursuant to California Health and Safety Code section 33750 et seq., and construct foundations, platforms, and other like structural forms necessary for the provision or utilization of air rights sites for buildings used for residential, commercial, industrial, or other uses contemplated by the redevelopment plan pursuant to California Health and Safety Code section 33440.

From a review of the Community Redevelopment Law and the Agency's authority in connection with the construction and rehabilitation of structures using Non-Housing Funds, it is clear the authority relates to physical work to the structure. None of the Agency's authority includes, or can be interpreted to include, social service programs or operations of a homeless shelter.

V. TAX INCREMENT FUNDS MUST BE USED TO PRIMARILY BENEFIT THE PROJECT AREA

Tax increment revenue must be spent on redevelopment activity that primarily benefits the project area. Cal. Health & Safety Code § 33678(b).

The requirement that the use of tax increment funds shall primarily benefit the project area serves to preclude a redevelopment agency from spending tax increment funds for many community facilities that solely provide a general community benefit and do not primarily benefit the project area from which the tax increment is generated. The issue of homelessness is a community-wide concern. Thus, without the specific authority in the Community Redevelopment Law for the Agency to provide for social service programs or operations of

Executive Director and the Board of Directors of the
Redevelopment Agency of the City of San Diego
May 21, 2010
Page 7 of 7

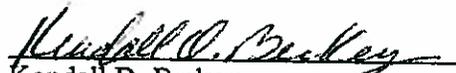
homeless shelters, the use of tax increment for these purposes may be considered contrary to the requirements set forth in California Health and Safety Code section 33678(b) in that such expenditure would provide a broad community benefit rather than a benefit primary to the project area.

CONCLUSION

Since the Agency is a creature of statute, the Agency's authority to act and spend funds must be provided in the Community Redevelopment Law. The Community Redevelopment Law does not provide the requisite authority for the Agency to use Agency funds for social service programs and operations of homeless shelters.

JAN I. GOLDSMITH, General Counsel,
Redevelopment Agency of the City of San Diego

By


Kendall D. Berkey
Deputy General Counsel

KDB:nda

MS-2010-5

cc: William Anderson, Assistant Executive Director
Janice L. Weinrick, Deputy Executive Director



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April 27, 2010

Redevelopment Agency
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San Diego, CA 92101-4514
(619) 236-6700

Via Email

Re: **Preliminary Actions: Proposed Amendment to Centre City Redevelopment Plan
Opposition to Use of Public Funds for New Chargers' Stadium**

Honorable Chair and Members:

Please accept this letter on behalf of our client, Save Our Forests and Ranchlands ("SORFAR"), an organization dedicated to progressive land use planning and the protection of vital natural resources. This letter serves to register SOFAR's opposition to the Redevelopment Agency's consideration of authorization for additional allocation of City resources for moving forward with an amendment to the Centre City Redevelopment Plan to increase the Tax Increment Limit "CAP", in so far as such planning is intended to develop and finance a new Chargers' stadium. The Redevelopment Agency and Centre City Development Corporation ("CCDC") are also hereby notified any further commitment to the new stadium is illegal as California Environmental Quality Act ("CEQA") review must be conducted before the City studies and approves an increase in the CAP for a new Charger's stadium.

As a continuation of the CCDC's pre-commitment to a new stadium, funding for additional studies to "facilitate completion of eliminating blight in the Center City Redevelopment Project" is a pretext for CCDC's commitment to build a new stadium. Any funds used to eliminate blight in the Project Area must not be used to study the viability or evaluate funding mechanisms for a new stadium. Rather, if the City wishes to proceed with a new stadium, CEQA review must begin now.

I. A Project Requires CEQA Review at the Earliest Stage of Approval

CEQA requires EIRs to be "prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment." CEQA Guideline § 15004(b). The CCDC has publicly stated its intent to pursue a new Charger's stadium.

The City Council will consider a \$500,000 plan Tuesday to hire consultants as the first step toward securing the approvals needed to spend more money repairing blight downtown and possibly building a new Chargers stadium.¹

Indeed, the CCDC seeks to commit additional public resources to implement such a private project. However, the California Supreme Court has spoken directly to the issue of CEQA review timing, and EIR preparation being triggered once an agency has taken steps toward approval of a project.

Just as CEQA itself requires environmental review before a project's approval, not necessarily its final approval [citation], so the guideline defines "approval" as occurring when the agency first exercises its discretion to execute a contract

¹ *Agency's Spending Cap Could Be Lifted, City Considers More Downtown Upgrades*, by Craig Gustafson, San Diego Union Tribune, Sunday, April 25, 2010 (emphasis added)

or grant financial assistance, not when the last such discretionary decision is made.

Save Tara v. City of West Hollywood, (2008) 45 Cal. 4th 116, 134 (emphasis added).

Contrary to the CCDC evaluation (exempting from CEQA the current allocation of funds because the CCDC believes such funding does not constitute a project), **the entirety** of the City and CCDC's actions and commitment to proceed with a Charger's stadium **does constitute a project** under CEQA. CEQA Guideline Section 15378 ("Project" means the whole of an action"). Thus, before allocating **half a million dollars** of public funds to study the possibility of increasing the CAP for a new stadium, the Redevelopment Agency must commit to conducting CEQA review.

The Redevelopment Agency must not permit "bureaucratic and financial momentum to build irresistibly behind" the possible new stadium, without conducting the requisite CEQA review. *Id.* at 135

II. The CAP is One Part of the CCDC's Piecemealing of the Stadium Project

Under the pretext of validly evaluating a CAP increase study, the CCDC now seeks to approve a piece of the larger project—the new stadium. As explained above, a project under CEQA is the whole of the action, and CCDC's attempt to approve each necessary component of the stadium (here grant financial assistance) is improper. PRC § 21159.27 ("A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article."); see also, *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376. Likewise, the CCDC cannot exempt each component from CEQA, all the while building the very bureaucratic and financial momentum decried under *Save Tara*.

Indeed, it is no secret the Chargers have requested CCDC assistance in building the stadium. Whether foreshadowing or preordaining the Redevelopment Agency's interest in increasing the CAP, Chargers' special counsel Mark Fabiani maintained the new stadium could not move forward without such a measure:

In fact, it's so important that the city's downtown redevelopment agency, which would potentially help finance the project, needs more money than it can get. A stadium cannot happen, a Chargers official said, without a complex and politically challenging effort to increase the amount of money the agency can collect. "It's an issue that must be resolved before a stadium could move forward," said Mark Fabiani, the Chargers special counsel leading the stadium search.²

However, proceeding with a CAP increase does not simply augment momentum toward a new stadium, it also means lost opportunities for other project and other areas.

If the life of the downtown redevelopment agency is extended, those other governments could miss out on millions in tax revenues that otherwise would flow into their coffers. **Millions that instead would subsidize an estimated \$800 million football stadium.** "Obviously we have a great desire to do what we can to keep the Chargers in San Diego," San Diego County Chief

² *Public Money Becomes Key for Chargers Stadium*, Voice of San Diego, December 7, 2009, available at http://www.voiceofsandiego.org/government/article_e5bf7bf6-e3b0-11de-a15c-001cc4c03286.html

Administrator Walt Ekard said.³

Although the CCDC's support, and Chargers' bullying, for a new stadium has been fairly public, the City's mounting financial contributions and the yet-to-be completed CEQA review have not.⁴ Each public expenditure and every new "study" further the CCDC's (and now Redevelopment Agency's) CEQA evasion. The Redevelopment Agency has an opportunity to prevent further CEQA violations and improper use of public funds by making sure the CCDC review does not contemplate plans for a new stadium.

III. Conclusion

We therefore urge the Redevelopment Agency to deny the CCDC request in so far as it authorizes further commitment to a new stadium. A new stadium requires full evaluation under CEQA, necessary for public participation, full disclosure, and minimum legal sufficiency before allocation of any additional public funds. Anything less will result in the City's post hoc rationalization for its prior commitment to the project.

Sincerely,

COAST LAW GROUP LLP



Marco A. Gonzalez
Attorney for SOFAR

CC: Clients

³ *San Diego County's Stake in a Chargers Stadium*, Voice of San Diego, April 25, 2010 available at http://www.voiceofsandiego.org/government/article_4c9e1b2e-50b8-11df-b44f-001cc4c002e0.html

⁴ *All You Want to Know About the Chargers Stadium Search*, Voice of San Diego, December 21, 2009, available at http://www.voiceofsandiego.org/government/article_935f817c-eeae-11de-8867-001cc4c03286.html; Evolution Media Presentation to CCDC January 2010 available at, <http://www.ccdc.com/events/resources/Item%2012%20-%20Power%20Point%20Presentation.pdf>; CCDC Agreement with Keyser Martson Associates (The CCDC has also sought consultants who "specialize in complex real estate transactions and public/private partnerships" and already plans to hire KMA to providing consulting for the Redevelopment Plan Amendment on April 28th, 2010).

MARY JO LANZAFAME
ASSISTANT CITY ATTORNEY

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Jan I. Goldsmith
CITY ATTORNEY

June 14, 2010

REPORT TO THE PUBLIC SAFETY AND
NEIGHBORHOOD SERVICES COMMITTEE

ECONOMIC DEVELOPMENT AUTHORITY OF REDEVELOPMENT AGENCIES

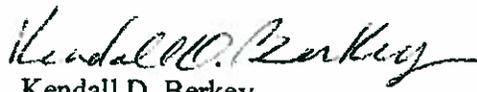
INTRODUCTION

The City Attorney's Office has been advised that the Public Safety and Neighborhood Services Committee will be discussing at an upcoming meeting (i) the extent to which the Centre City Development Corporation (CCDC) may assist the City of San Diego (City) with economic development within the Centre City Redevelopment Project Area and (ii) the extent to which the Redevelopment Agency of the City of San Diego (Agency) may expend its redevelopment project funds, including tax increment funds and other funds collected by the Agency, to further economic development.

A legal analysis of the extent to which Agency funds may be used to further economic development is discussed in the attached Memorandum prepared by Murray O. Kane of the law firm Kane, Ballmer & Berkman, the Agency's Special Legal Counsel, dated June 4, 2010.

Additionally, the Agency and CCDC entered into an Amended and Restated Operating Agreement in April, 2010 for the purpose of CCDC providing certain staff services for the implementation of projects for redevelopment within the Centre City and Horton Plaza Redevelopment Project Areas. CCDC and the City, however, have not entered into a similar operating agreement for CCDC to provide economic development services on behalf of the City.

Respectfully submitted,

By 
Kendall D. Berkey
Deputy City Attorney

KDB:nda
Attachment
RC-2010-24

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MEMORANDUM

TO: Kendall D. Berkey, Deputy General Counsel, Redevelopment Agency of the City of San Diego

FROM: Murray O. Kane, Kane Ballmer & Berkman, Special Counsel

DATE: June 4, 2010 *Murray O. Kane*

RE: Economic Development Authority for Redevelopment Agencies

INTRODUCTION

The City of San Diego [City] has directed the Centre City Development Corporation [CCDC] to increase its emphasis on the economic development of the Centre City Redevelopment Project Area [Project Area]. Members of the City Council have inquired regarding the extent to which the Redevelopment Agency of the City of San Diego [Agency] may expand its Redevelopment Project funds, including tax increment funds and other funds collected by the Agency to further economic development. In light of these inquiries, we have been asked to provide a legal opinion on this matter.

QUESTION PRESENTED

To what extent may the Agency use tax increment and other Project Area funds to further the economic development of the Project Area?

SUMMARY

The California Community Redevelopment Law set forth in California Health & Safety Code Sections 33000 et seq. [Community Redevelopment Law] contemplates economic development as part of the redevelopment of a blighted redevelopment project area, yet currently provides few tools and only limited authority to expend public funds on economic development programs such as job creation, small business incubators and business retention.

The tools provided in the Community Redevelopment Law to redevelopment agencies to eliminate blight in a redevelopment project principally relate to property acquisition, property management, relocation of persons and businesses, demolition, clearance, construction and installation of public improvements, public facilities and publicly owned structures, property disposition, property rehabilitation, hazardous substance release cleanup, and the increase and improvement of the supply of affordable housing. The use of these tools to eliminate blight frequently results in the attainment of economic development goals, and is undertaken in part to achieve such goals, but such achievement generally results indirectly rather than directly from the Agency expenditures.

For example, there is no authority in the Community Redevelopment Law for the Agency to directly make operational loans and grants to private businesses specifically for job creation or business retention, or for small business incubator activities.

This lack of redevelopment agency economic development authority is broadly recognized, and is currently the subject of State legislative activity. Assembly Bill 2531 (Fuentes) has been introduced this year to expand and clarify the Community Redevelopment Law to add specific authority to redevelopment agencies to more directly provide for the creation of jobs and the retention and attraction of businesses.

As stated by the Legislative Counsel in the Digest of AB 2531, the bill would give new programmatic authority to a redevelopment agency "...to provide loans, financial guarantees, or other financial assistance to owners or tenants in a redevelopment project area for retaining or expanding employment in the project area..."

Despite these limitations, redevelopment agencies in California have developed a number of limited approaches to accomplish economic development, and these are described below.

ANALYSIS

1. Financing Redevelopment

The Agency is a public body, corporate and politic, that exercises governmental functions and has the powers prescribed to it in the Community Redevelopment Law. Cal. Health and Safety Code sections 33100, 33122.

Since the Agency is a creature of statute, the Agency's authority to act and spend funds must be provided in the Community Redevelopment Law. The legal justification for use of the extraordinary public powers authorized by the Community Redevelopment Law is the elimination of blight. *Berman v. Parker*, 348 U.S. 26 (1954).

The primary funding source relied on by the Agency to finance its activities under the Community Redevelopment Law is tax increment revenue used "to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project." Cal. Health and Safety Code section 33670(b); Cal. Const. art. XVI, § 16.

Tax increment revenue is the Agency's ability to receive and spend a portion of property tax revenues from the increase in assessed value of real property that has occurred after adoption a redevelopment plan for a project area. Cal. Health and Safety Code sections 33670 and 33678.

2. Limitation on the Use of Tax Increment Funds for Redevelopment Activity

Tax increment revenue must be spent on redevelopment activity, which includes redevelopment as prescribed in sections 33020 and 33021 of the Cal. Health and Safety Code that primarily benefits the project area (Cal. Health and Safety Code section 33678(a) and (b)).

Although the Community Redevelopment Law includes in the goals and purposes of redevelopment the provision of "genuine employment opportunities" (Cal. Health and Safety Code section 33070) and the expansion of "employment opportunities for jobless, underemployed, and low-income persons" (Cal. Health and Safety Code section 33071), specific job creation and business retention authority cannot be found in the crucial statutory definitions of redevelopment nor in the descriptions of redevelopment agency legal authority set forth in the Community Redevelopment Law.

Redevelopment is defined, in part, as the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and the provision of those residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them. Cal. Health and Safety Code section 33020.

Additionally, redevelopment is defined to include: (a) the alteration, improvement, modernization, reconstruction, or rehabilitation, or any combination of these, of existing structures in a project area; (b) the provision for open-space types of use, such as streets and other public grounds and space around buildings, and public or private buildings, structures and improvements, and improvements of public or private recreation areas and other public grounds; and (c) the replanning or redesign or original development of undeveloped areas that are stagnant or improperly utilized or that require replanning and land assembly for reclamation or development in the interest of the general welfare. Cal. Health and Safety Code section 33021.

Neither section 33020 nor section 33021 of the Cal. Health and Safety Code provide that redevelopment includes the provision of economic development programs such as loans or grants to businesses for job creation or business retention, or the provision of any similar type of assistance, and Cal. Health and Safety Code Section 33678 limits the expenditure of tax increment revenue to redevelopment activity as prescribed in sections 33020 and 33021.

3. Economic Development Authority Currently in the Community Redevelopment Law

Limited statutory authorization for redevelopment agencies to expend funds for economic development purposes can be found in the following provisions of the California Redevelopment Law:

Section 33127: Authorizes a redevelopment agency to obtain services.

Section 33131: Authorizes a redevelopment agency to “prepare and carry out plans for the improvement, rehabilitation, and redevelopment of blighted areas” and to “disseminate redevelopment information”;

Section 33135: Authorizes a redevelopment agency to provide “aid and assistance to property owners in connection with rehabilitation loans and grants.”

Section 33444.5: Authorizes a redevelopment agency to “establish a program under which it loans funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures within the project area.”

Section 33444.6: Authorizes a redevelopment agency to “assist with the financing of [industrial or manufacturing] facilities or capital equipment, including, but not necessarily related to, pollution control devices.”

4. **Examples of Economic Development Activity by California Redevelopment Agencies**
- A. Reimbursement agreements with owners and tenants to pay for capital equipment for companies that are using space for industrial or manufacturing purposes under Section 33444.6.
 - B. The sublease of Agency-owned or leased space under Section 33430 to entities that operate business incubators. This would be where the Agency owns or leases the real estate.
 - C. Assistance to tenants for tenant improvements as a part of the Agency's rehabilitation program. Section 33444.5.
 - D. Financial support of a job fair or other community activity so long as program materials include the dissemination of redevelopment information, such as a description of relevant Agency accomplishments, activities and proposed related projects in the area. Section 33131.
 - E. Requiring developers and owner participants to donate funding to community job training programs as a condition of otherwise authorized redevelopment assistance, and recognizing such expenditures as a project cost for purposes of analyzing the amount of any economic feasibility gap for the proposed project.
 - F. Requiring developers and owner participants to provide necessary outreach and to give preference to jobs to those meeting certain criteria, such as income levels, as a condition of otherwise authorized redevelopment assistance, and recognizing such expenditures as a project cost for purposes of analyzing the amount of any economic feasibility gap for the proposed project.
 - G. Expending funds to acquire interests in real property, such as covenants running with the land, which impose operating covenants and add restrictive covenants, pursuant to the Agency's general authority to "acquire ...any interest in real property..." (Section 33391(a)).
 - a. For example, in order to retain a business in the Project Area, an Agency enters into an owner participation agreement with that business whereby the Agency expends funds to acquire from the property owner/business covenants running with the land that require the continuation of the current use, or that restrict uses to the current use. Funds are either expended up front or paid out over time as the business stays in the community.
 - b. For example, in order to assist in the increase of jobs in the Project Area, an Agency enters into an owner participation agreement with

that business whereby the Agency expends funds to acquire from the property owner/business covenants running with the land that require the creation of a specific number of jobs. Funds are either expended up front or paid out over time as the business stays in the community, and can be advanced in the form of either a grant, or a loan which is forgiven over time as job creation goals are satisfied.

- H. Imposing the same covenants as described in the examples in subparagraph G, but in connection with the disposition of Agency property pursuant to the Agency's general powers of disposition of real property (Section 33430).
- I. Redevelopment agencies have used their authority to enter into contracts to obtain services and to prepare plans for improvement and redevelopment by hiring consultants or utilizing staff to prepare and implement business/retail attraction and marketing plans. Also, a redevelopment agency may use the same legal powers to the same end by entering into a contract with an outside non-profit entity to hire staff and/or consultants to prepare and implement business/retail attraction and marketing plans.

CONCLUSION

Since the Agency is a creature of statute, the Agency's authority to act and spend funds must be provided in the Community Redevelopment Law. The Community Redevelopment Law currently provides very limited authority for the Agency to directly use Agency funds for specific economic development programs.

cc: William Anderson, Assistant Executive Director
Janice L. Weinrick, Deputy Executive Director
Frank Alessi, CCDC Executive Vice President/Chief Financial Officer
Jeff Graham, CCDC Vice President, Redevelopment

Centre City & Horton Plaza Project Areas
Centre City Development Corp.
Summary of Projects (2011 to 2033)
(000's Omitted)

PROJECT / DESCRIPTION	PROJECTED COST	Community Plan Goal/Policy	COMMENTS
Parks and Open Space			
East Village Green West Block (13th, 1th ,F & G Streets)	\$5,000	4.1-P-2	Design and Construction
East Village Green East Block (14th, 15th, F & G Streets)	\$15,000	4.1-P-2	Design and Construction
SDGE Sub Station	\$25,000	4.1-P-2	Acquisition, Relocation, Other
St. Josephs Park (3rd Ave, 4th Ave, Beach & Ash)	\$15,000	4.1-P-2	Acquisition, Design and Construction
Post Office Square Park (8th Ave, 9th Ave, E St & F St)	\$32,500	4.1-P-2	Acquisition, Design and Construction
Post Office Square Historic Building Rehab	\$21,000	4.1-P-2	Acquisition, Design and Construction
Civic Square (C St, Front, Union & B Street)	\$41,500	4.1-P-2	Acquisition, Design and Construction
North Central Square (Improvements Only)	\$3,000	4.1-P-2	Acquisition, Design and Construction
Navy Broadway Complex Park 1A	\$12,000	4.1-P-6	Design and Construction
Dog Leash-Free Park	\$600	4.1-P-8	Design and Construction
MLK Promenade Improvements	\$100	4.1-P-, 4.1-G-4	Improvement/Upgrades to existing Park
Children's Park Improvements	\$700	4.1-P-1, 4.1-G-4	Improvement/Upgrades to existing Park
Gaslamp Park Improvements	\$700	4.1-P-1, 4.1-G-4	Improvement/Upgrades to existing Park
Amici Park Improvements	\$100	4.1-P-1, 4.1-G-4	Improvement/Upgrades to existing Park
General Park Enhancements	\$750	4.1-P-1, 4.1-G-4	General Improvement to existing Parks
Freeway Lids (5 per community Plan)	\$300,000	5.6-P-1 & 4.1-P-7	2nd Ave to 8th Ave Lids
Additional Freeway Lids	\$65,000	5.6-P-2	Market Street & Island Lids
Park - Barrio Logan	\$5,000	8.2-G-2	Acquisition, site near Barrio Logan.
Open Space Redevelopment	\$5,000	4-1 P.11	Acquisition, Design, and Construction
Pocket Parks and Plazas	\$5,500	4.1-P-8	
Subtotal Parks and Open Spaces	\$553,450		Cost are not Escalated
Fire Stations			
East Village Fire Station (13th & Broadway)	\$21,000	8.2-P-2	Design, Construction & Equipment
Fire Station #1	\$37,000	8.2-P-2	Permanente - Design, Construction & Equipment
Port Fire Station	\$30,000	8.2-P-2	
Subtotal Fire Stations	\$88,000		Cost are not Escalated
North Embarcadero	\$79,000	4.1-P-5	Future Phases of Project
C St Corridor Improvements	\$110,000	BOX 5-1, 8.4-P-1, 6.2-G-2, 7.1-P-2	Design & Improvements

Centre City & Horton Plaza Project Areas
Centre City Development Corp.
Summary of Projects (2011 to 2033)
(000's Omitted)

PROJECT / DESCRIPTION	PROJECTED COST	Community Plan Goal/Policy	COMMENTS
Columbia/Core Public Improvements			
B Street Pedestrian Corridor	\$340	4.1-P-8, 4.1-G-2	Note: Area Expires 2017/2033
Civic Center	\$50	8.4-G-1-2, 8.4-P1-4	
Two America Plaza HOA Fees/Other	\$3,500		Annual HOA dues for site and potential improvements
Navy Broadway Complex - Development Agreement	\$0		Balance to complete review of project
California Theatre	\$50,000	9.1-P-2, 11.3-G-4	Acquisition, Parking, Retail Other
"C" Street Rehab Loan Program	\$5,000	BOX 5-1	Facade improvement program for C Street
General Public Improvements	\$5,000	7.2-P-4, 11.3-G-4	Provision for sidewalks, traffic signals, pop-outs, etc.
Subtotal Columbia/Core Public Improvements	\$63,890		Cost are not Escalated
Cortez Public Improvements			
Cedar Street Pop-outs and Improvements	\$2,000	7.1-P-3, 7.2-P-4	Note: Area Expires 2033
Public Parking - Below grade at St. Josephs Park	\$8,000	7.4-G-1, 7.4-P1-7	Improve Cedar as pedestrian corridor
2nd Ave (Cedar) Off-ramp modification	\$15,000	7.1-G-2, 7.1-P-3	Net Equity Investment - Bal. financed with Parking Bond
General Public Improvements	\$5,000	7.2-P-4	Removing 2nd Ave off-ramp per community plan
Subtotal Cortez Public Improvements	\$30,000		Provision for sidewalks, traffic signals, pop-outs, etc. Cost are not Escalated
East Village Public Improvements			
Tailgate Park Remediation	\$1,500	13.2-G-1, 13.2-P.1-2	Note: Area Expires 2033
Seventh & Market Site Public Parking	\$15,000	7.4-G-1, 7.4-P1-7	Net Equity Investment - Bal. financed with Parking Bond
Park & Market Site Improvement	\$1,000	6.5-G-12, 7.2-P-4	Est. In Conjunction with DDA or if Agency improves site
Market Street Medians and Improvements	\$900	6.5-G-2, 7.2-P-4	6th to 17th St., City Traffic Eng may not approve
G Street Gateway Lights	\$700	5.6-G-2-P.3, 6.5-G-12	Could be delayed, converts all lights on G to gateways
Ballpark Village OPA / Implementation Agreement	\$300		Legal/Environmental/Design Review/Public Outreach
Broadway east medians - Design/Const	\$5,000	5.6-P-3	City Traffic Eng may not approve medians.
Public Parking - Below grad at East Village Green	\$25,000	4.1-P-4	Net Equity Investment - Bal. financed with Parking Bond
MTS Site Relocation/Remediation	\$150,000	3.2-P-6	
General Public Improvements	\$10,000	6.5-G-12, 7.2-P-4	Provision for sidewalks, traffic signals, pop-outs, etc.
Subtotal East Village Public Improvements	\$211,400		Cost are not Escalated

Centre City & Horton Plaza Project Areas
Centre City Development Corp.
Summary of Projects (2011 to 2033)
(000's Omitted)

PROJECT / DESCRIPTION	PROJECTED COST	Community Plan Goal/Policy	COMMENTS
Gaslamp Public Improvements			
Fifth & Market Scramble Modification	\$180	7.2-P-4	Note: Area Expires 2023
Gaslamp Quarter Gateway Program	\$300	5.6-G-2,P-3,6.5-G-12	revise signal timing, improve pedestrian audible system
Gaslamp Renaissance Legal Expense + Acquisition	\$10		
4th & Broadway Conduit Undergrounding	\$50	5.4-P-3	
General Public Improvements	\$1,000	6.5-G-12, 7.2-P-4	Provision for sidewalks, traffic signals, pop-outs, etc.
Subtotal Gaslamp Public Improvements	\$1,540		Cost are not Escalated
Horton Project Public Improvements			
Balboa Theatre - Operating Reserve	\$4,000		Note: Area expires 2013
Balboa Theatre - Insurance	\$510		Requirement Per Agreement
Horton Sidewalks and other public improvements	\$2,500		Annual obligation through life of HP project area.
Horton Plaza Park Improvements	\$4,500	5.4-G-1-2	\$2.5 mil Funded in FY 10
Westfield Horton Plaza Consultants / Evaluations	\$100		Study of fountain underway.
Lyceum Theater	\$825		Improvement to Theatre Per Agreements
Subtotal Horton Project Public Improvements	\$12,435		Cost are not Escalated
Little Italy Public Improvements			
Little Italy Kiosks & Parking Program	\$1,200	5.7-P-1, 7.4-P-1-4	Note: Area expires 2033
Date Street Public Restroom	\$900	4.1-P-16	Design/Const of a Public Restroom
Little Italy Streetscape	\$100	5.4-G-1-2	\$1.9 mil funded in FY 09 & 10
Public Parking Facilities	\$25,000	7.4-G-1, 7.4-P-1-4	Net Equity Investment - Bal. financed with Parking Bond
General Public Improvements	\$5,000	6.5-G-12, 7.2-P-4	Provision for sidewalks, traffic signals, pop-outs, etc.
Subtotal Little Italy Public Improvements	\$32,200		Cost are not Escalated
Marina Public Improvement			
General Public Improvements	\$1,000	6.5-G-12, 7.2-P-4	Note: Area expires 2017
Subtotal Marina Public Improvements	\$1,000		Provision for sidewalks, traffic signals, pop-outs, etc. Cost are not Escalated

Centre City & Horton Plaza Project Areas
Centre City Development Corp.
Summary of Projects (2011 to 2033)
(000's Omitted)

PROJECT / DESCRIPTION	PROJECTED COST	Community Plan Goal/Policy	COMMENTS
Areawide - Public Infrastructure			
Areawide Traffic Signals	\$16,000	5.4-P-2, 11.3-G-4	Community Plan Chapter 7 Narrative
Areawide Streetlights	\$9,300	5.4-P-2, 11.3-G-4	
Areawide Street Enhancements (incl pop-outs)	\$20,000	5.4-P-2, 11.3-G-4	
Areawide Sidewalk Reconstruction	\$30,000	5.4-P-2, 11.3-G-4	
Areawide Way Finding	\$700	5.7-G1-2, P1-2	\$1.2 mil funded in FY 10
Bicycle Plan and Improvements	\$2,100	7-2-G1-2, 7.2P1-4	
Litter Receptacles - Phase III	\$500	7.2-P-4	
Park to Bay (Phase III - Broadway to Balboa Park)	\$5,000	4.1-P-13	
Parking District Activities	\$21,300	7.4-G1-4, 7.4-P-1-7	
Real Time Parking Signs	\$2,000	5.7-G-1, 7.3-P-6	Comp. Parking Plan Short Term Goal
Areawide Newspaper Corrals and Racks	\$500	7.2-P-4	
ADA Pedestrian Audible Signals/Sidewalks	\$4,000	Chapter 7 Narrative	
Sustainability Implementation	\$1,100	5.8 G1-2, P1-9	
Storm Drain improvements	\$5,000	PF-G.1	General Plan - Conservation Element
Transit Improvements (BRT)	\$25,000	FEIR Mitigations	
Broadway Improvements	\$6,000	5.5-P-5	From 5th to 16th Streets
Urban Forest	\$1,500	5.8-P-2	
Arrival Gateway Signs (6 Major and 15 Minor)	\$10,500	5.6-P-3	
Full Green Street Program	\$7,000	4.1-P-9, 5.4-P-2	Identified in Community Plan
Pedestrian Access Projects	\$2,000	6.8-G.8	
6th Ave Bridge Improvements	\$1,000	6.6-G-8	
Neighborhood Streetscape Identity	\$2,500	6.5-G-12	
Streetscape Utility Relocations	\$5,000	5.4-P-3	
Pedestrian Priority Zones	\$5,000	7.2-P-4	
Traffic Calming Improvements	\$2,000	7.2-P-2	
Downtown Shuttle Implementation - Infrastructure	\$1,000	Box 7-2, 7-4, 3.5-G-1	With Port. Shuttle Stop Design and Installations
Downtown Signal Improvements	\$2,000	Chapter 7 Narrative	With SANDAG, City of San Diego and Caltrans
HAZ-Mat Site Remediation	\$10,000	13.2-P-3	
Subtotal Areawide - Public Infrastructure	\$198,000		Cost are not Escalated
Areawide - Business Attraction & Economic Development			
General Business Attraction & Economic Development	\$27,300	11.3-P-5	
Business Incubator Study & Implementation	\$5,000	11.3-P-5-6	
Economic Development Strategy	\$500	11.3-P1-7	
	\$27,300		Cost are not Escalated

Centre City & Horton Plaza Project Areas
Centre City Development Corp.
Summary of Projects (2011 to 2033)
(000's Omitted)

PROJECT / DESCRIPTION	PROJECTED COST	Community Plan Goal/Policy	COMMENTS
Areawide - Community Plan Implementation			
Neighborhood Design Guidelines Ph. I			
East Village	\$0	Page 5-16, 14-2	Funded in FY 10
Little Italy Neighborhood Guidelines	\$0	Page 5-16, 14-2	Funded in FY 10
Comprehensive Parking Plan	\$0	Page 5-16, 14-2	Funded in FY 10
Community Plan Review	\$2,000	Page 14-2	Five Year Updates to plan
Streetscape Manual	\$1,000	Page 14-2	Five & Ten Year reviews of community plan
Areawide Way finding System	\$0	Page 14-2	Funded in FY 10
Historic Rehabilitation Program	\$1,200	5.7 G1-2,P1-2	Design & Implementation
Five year Traffic Study	\$50,000	9.1-P-3	
Downtown Demographics	\$150	Page 14-2	
Downtown Shuttle Study	\$150	Page 14-2	
Comprehensive Maintenance Program	\$200	Box 7-2,7-4,3.5-G-1	
Rideshare Programs	\$100	4.1-G-5	
Topical Library Partnership Analysis	\$250	7.5-P-1	With SANDAG
Affordable Housing Strategies	\$250	8.5-P-1	
LRT/BUS Transit vs. FEIR Projections	\$250	Box 3-1, 3.4-G-2	
Design Guidelines - Industrial Adjacencies	\$250	Page 14-2	5 Year Review
Review of TDR Program	\$400	3.3-P-6	
VMT Study	\$150	Page 14-2	
Urban Design Panel	\$250	3.3-G-2	
Incentive Program - Community Facilities	\$150	5.9-P-2	
Incentive Program - Cultural Facilities	\$250	8.3-P-1	
Incentive Program - Historic Preservation	\$250	10.2-G1-3	
Historic Interpretive Program	\$250	9.1-P-2	
Cultural Facility Development Plan	\$550	9.2-P-2	
Incentive Program - Cultural Facilities	\$250	10.2-G1-3	
Downtown Emergency Preparedness Plan	\$600	10.2-P-1	
	\$2,500	12.3-P-1-3	
Subtotal Areawide - Community Plan Implementation	\$61,400		Cost are not Escalated
Areawide - Education Facilities	\$20,000		

Centre City & Horton Plaza Project Areas
Centre City Development Corp.
Summary of Projects (2011 to 2033)
(000's Omitted)

PROJECT / DESCRIPTION	PROJECTED COST	Community Plan Goal/Policy	COMMENTS
Areawide - Land Acquisition and Remediation			
General Land Acquisition for Development Remediation Fund	\$100,000 \$0	Chapter 4 13.2-G-1, 13.2-P1-3	Opportunity Acq. equal to approx 5 full blocks as needed for DDA's, legal agreements
Subtotal Areawide - Land Acquisition and Remediation	\$100,000		
Areawide - Plans & Studies			
Solar System Study for Agency owned Property Plans & Studies - Generic Updates to Centre City & Horton Plaza Redevelopment Pla	\$50 \$2,700 \$500	Page 14-2	
Subtotal Areawide - Areawide Plans & Studies	\$3,250		Cost are not Escalated
Areawide - Public Art			
Public Art - Special Projects Public Art - 2% Ordinance (set aside) Joint Public Art Program (w/Port) - connection to water Public "Arts Market"	\$500 \$14,110 \$1,000 \$100	10.1-G-1-2, P-1-4 10.1-G-1-2, P-1-4 10.1-P-2 10.2-P-3	Includes Art Master Plan
Subtotal Areawide - Public Art	\$15,710		
Areawide - Social Services Capital Improvement Program			
Health & Human Service Capital Grant Program Human Services Facilities Plan Homelessness Prevention Strategies	\$15,000 \$500 \$2,500	12.2-P-1 12.2-P-1 12.3-P-1-2	
Subtotal - Social Service Capital Imprv. Program	\$15,000		Cost are not Escalated
FEIR MITIGATION - Proposed Transit Improvements (for reference Only)			
Bayside Trolley Improvements Downtown Stations for Early Action BRT Services Downtown Periphery Bus Transfer Centers Transit and BRT Priority Measures Santa Fe Depot/American Plaza Ped Improvements Twelfth and Imperial Station and Track Improvements Additional Trolleys Downtown Shuttle and Circulator Vehicles Downtown Transit Improvement Study (Subway)		7.3-G-1-2 7.3-G-1-2, 7.3-P-3 7.3-G-1-2, 7.3-P-3 7.3-G-1-2, 7.3-P-3 7.3-G-1-2 7.3-G-1-2 7.3-P-3 7.3-G-1-2	With participation of SANDAG, MTS and the City TransNet Early Action Program Identified in Community Implementation TransNet Early Action Program See Downtown Shuttle - Community Plan Completed 2008

Centre City & Horton Plaza Project Areas
 Centre City Development Corp.
 Summary of Projects (2011 to 2033)
 (000's Omitted)

PROJECT / DESCRIPTION	PROJECTED COST	Community Plan Goal/Policy	COMMENTS
Other Consultant Cost			
Centre City - General Engr., Finance, Legal, Prop. Mngt. G	\$24,000		
Horton Plaza - General Engr., Finance, Legal, Prop. Mngt.	\$1,000		preliminary draft
Subtotal Other Consultant Cost	<u>\$25,000</u>		
Total Capital Projects	<u>\$1,648,575</u>		

* All cost are preliminary rough estimates made by staff and will need to be independently calculated by a third party
 ** All estimates are reflected in 2010 values with no cost escalation assumptions



VIA PERSONAL DELIVERY

May 26, 2009

The Honorable Carl DeMaio
Councilmember, District 5
The City of San Diego
City Administration Building, 10th Floor
202 C Street, MS 10A
San Diego, California 92101

Re **Direction on Potential Amendment to the Centre City Redevelopment Plan**

Dear Councilmember DeMaio:

During the City Council/Redevelopment Agency meeting of March 10, 2009, staff was directed to provide a report on the process, pros and cons of moving forward with an amendment to the Centre City Redevelopment Plan ("Plan") increasing the Tax Increment Limit "CAP" to facilitate the completion of eliminating blight in the Centre City Redevelopment Project ("Project Area"). Subsequently, at the May 7, 2009 Budget Review Committee meeting, it was requested that a report be provided within 30 days.

Amendments to redevelopment plans may be implemented by taking the steps necessary as outlined in the California Community Redevelopment Law (CRL). These steps include public hearings of both the Council and the Agency, submitting a report to the Department of Finance (DOF) and the Department of Housing and Community Development (HCD). The content of such public hearings will include a Preliminary Report and a Report to Council, both of which contain descriptions of the blight remaining in the Project Area, non-blighted areas, projects that will eliminate such blight and the relationship between the costs of such projects and the amount of the increase in the CAP the Agency is seeking. The entire process may take 12 to 18 months to implement.

Significant staff time and several consultants will be required to facilitate the information for the blight findings, economic analysis, special legal counsel, engineering surveys and advertising for hearings and notices by certified mail to every property owner, resident and business in the Project Area. The amount of these costs is currently unknown;

however, it is estimated that the cost for consultants may be \$500,000 excluding any potential litigation.

The following provides a general outline of the steps necessary. Attached is a preliminary schedule to implement an amendment to the Plan.

- The Council and Agency would hold a Joint Public hearing with the Council adopting an ordinance and the Agency adopting an amendment to the Plan
- Within 45 days prior to the public hearing, the Agency notifies the DOF and HCD of the public hearing and the Proposed Amendment. The notice to the State shall include a report containing:
 - A map of the Project Area identifying blighted and non-blighted areas
 - A description of the blight
 - A description of the project or programs that will eliminate the blight
 - A description of how these projects or programs will improve the conditions of blight
 - Reasons why the projects or programs cannot be done without an increase of the CAP
 - The method of financing the projects or programs
 - An amendment to the Five-Year Implementation Plan in place
 - If the area contains low- or moderate-income housing, a neighborhood impact report is required.The report to the State allows them to understand how the amendment may affect the State's general fund.
- Within 21 days, the DOF or HCD may send their comments for potential legal action
- The ordinance to be adopted by the Council will contain findings that:
 - Significant blight exists
 - The blight cannot be eliminated without additional debt and the increase of the CAP
- A Preliminary Report needs to be prepared to justify the proposed amendment and forwarded to all of the taxing entities no later than 90 days before the date of the public hearing
- In addition, a Report to the Council needs to be prepared containing the following information:
 - Remaining blight within the project area
 - Portion no longer blighted
 - Projects needed to eliminate the blight
 - Relationship between the costs of the projects and the amount of the CAP increase

In 2004, the Corporation prepared new blight findings in its report to Council when the Eighth Amendment to the Centre City Redevelopment Plan was adopted extending the period which eminent domain could be used in the Project Area. Based upon these blight findings, staff can begin to update the blight survey and bring forward the appropriate actions to the Council and Agency.

The Project Area, created in 1975 and 1982, consisted of the Marina, Columbia and Gaslamp sub-areas, which subsequently merged and expanded to include the Expansion sub-area in 1992 now known as the Centre City Redevelopment Project Area. In general the goals and objectives of the Project Area are in accord with the Centre City Community Plan which sets the vision for the future form of the Downtown San Diego Community. Despite the progress that has been made in the elimination of blight, significant portions of the Project Area include areas and buildings that show signs of disinvestment and neglect, un-reinforced buildings, underutilized lots, contaminated soils, crime, incompatible land use and the existence of homeless camps. In addition, infrastructure is lacking and public improvements such as streets and sidewalks are in various levels of disrepair.

The goals and objectives for eliminating these blighting elements include:

- Providing neighborhood/community-based facilities such as parks, plazas, commercial recreational uses, open spaces, recreational centers, and other community facilities serving the needs of the entire downtown
- Expand and improve the supply of low- and moderate-income housing
- Install needed public improvements, including parking and transit facilities
- Provide strong physical linkages to create attractive vehicular and pedestrian connections between major downtown activities and the waterfront
- Provide appropriately sized parcels to encourage development
- Provide for a socially balanced community by providing for jobs and housing for persons of varying social, economic, and ethnic groups

To address this blight and the goals and policies of the Community Plan, many objectives are being implemented such as parks and open space, fire stations and public infrastructure; however, the costs of implementing these objectives far exceed the remaining tax increment allowed to be received under the current Plan. The current projections anticipate that after providing for debt service on existing bonds, payment to taxing entities, and other obligations, there will be approximately \$275 million of tax increment to produce low- and moderate-income housing units and \$550 million of tax increment for all other redevelopment activities to meet the visions and goals of the Community Plan. The tax increment will cease to be available far sooner than the life of the Plan. Therefore, it is recommended that the gathering of data and the financial analysis begin to proceed with the implementation of a Plan amendment.

At this time, there is no "project" under the definition set forth in CEQA Guidelines Section 15378 that would require environmental review. Therefore, pursuant to CEQA Guidelines Section 15060(c) (3), this activity is not subject to CEQA. However, in the event that the Project Area Amendment is to be considered, environmental documents and procedures would be required to comply with CEQA.

The Centre City Redevelopment Plan has limited resources to implement the goals and policies of the 2006 Downtown Community Plan during the Project Area's timeline with

The Honorable Carl DeMaio

May 26, 2009

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the current limitation on the CAP of tax increment. Therefore, it is recommended that staff proceed with the necessary steps to implement a Plan amendment increasing the CAP.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Frank J. Alessi".

Frank J. Alessi
Executive Vice President and
Chief Financial Officer

FJA:lly

Attachment A – Preliminary Plan Schedule

Pc: The Honorable Jerry Sanders, Mayor
The Honorable Councilmembers
Corporation Board of Directors