



## THE CITY OF SAN DIEGO

DATE ISSUED: February 14, 2011

REPORT NO. RA-11-07  
RTC-11-22

ATTENTION: Honorable Chair and Members of the Redevelopment Agency  
Council President and City Council  
Docket of February 28, 2011

SUBJECT: Cooperation Agreement for Payment of Costs Associated with Certain  
Redevelopment Agency Funded Projects

**THIS ITEM IS A NOTICED JOINT PUBLIC HEARING OF THE REDEVELOPMENT  
AGENCY AND THE CITY COUNCIL.**

**REQUESTED ACTIONS**

That the Redevelopment Agency and City Council:

1. Authorize the Executive Director or designee and Mayor or designee, respectively:
  - a) to execute the Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Projects ("Agreement") between the Redevelopment Agency ("Agency") and The City ("City");
  - b) to execute and deliver, and file and record against Agency-owned property, any documents, including without limitation promissory notes, pledge agreements and security instruments, deemed by them to be reasonably necessary to carry out and implement the Agreement and to administer the Agency's and the City's obligations, responsibilities, and duties to be performed under the Agreement; and
  - c) to execute such non-substantive changes and amendments as they may approve and as may be approved by Agency Special Counsel and the City Attorney.
2. Make necessary determinations pursuant to California Health and Safety Code Section 33445 with respect to the identified Projects that are publicly owned and are located inside or contiguous to the Agency's 17 respective Redevelopment Project Areas that:
  - a) said Projects and the programs and activities associated therewith are of benefit to the Project Area by helping to eliminate blight within the Project Area or providing housing for low- or moderate income persons;
  - b) no other reasonable means of financing said Projects and the programs and activities associated therewith are available to the community; and
  - c) the payment of funds by the Agency for the costs related to said Projects and the programs and activities associated therewith is consistent with the Implementation Plan adopted pursuant to Section 33490 of the California Redevelopment Law ("CRL").
3. Make necessary findings and determinations in accordance with California Health & Safety Code Section 33334.2 with respect to the use of low- and moderate income



**Redevelopment Agency**

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housing funds for the Projects that include low and moderate income housing located outside of the Project Areas that such use will be of benefit to the community because the use of such funds will be of benefit to the Project Areas.

4. Authorize that, in the event the Agency desires to issue bonds, notes, or other instruments of indebtedness to carry out redevelopment projects:
  - a) any indebtedness of the Agency to the City, including any interest accrued thereon, shall be deemed not to be a first pledge of tax increment allocations received by the Agency pursuant to Section 33670 of the CRL;
  - b) any indebtedness of the Agency to the City, including any interest accrued thereon, shall be subordinate to any pledge of tax increments to bondholders or the holders of other such instruments of indebtedness; and
  - c) the indebtedness of the Agency under the Agreement shall be subordinate to the rights of the holder or holders of any existing bonds, notes or other instruments of indebtedness of the Agency incurred or issued to finance redevelopment activities and projects pursuant to the Redevelopment Plans and the Implementation Plans.

That the Redevelopment Agency:

Authorize the transfer to the City of Net Tax Increment, other revenue received by the Agency and available fund balances for Projects as described in the Payment Schedule set forth in Exhibit 2 of the Agreement.

That the City Council:

1. Consent to the use of the Agency's funds to pay for costs associated with the Projects, in a manner consistent with the Cooperation Agreement.
2. Authorize the City Chief Financial Officer, as delegated to appropriate, encumber and expend Net Tax Increment, other revenue received by the Agency and available fund balances for Projects as described in the Payment Schedule set forth in Exhibit 2 of the Agreement and contingent on first furnishing a certificate that funds are, or will be, on deposit in the City Treasury.

#### STAFF RECOMMENDATION

Approve the requested actions.

#### BACKGROUND

The Agency has adopted Five-Year Implementation Plans for the 17 Project Areas which established goals and objectives to support affordable housing; economic development; and commercial, community and institutional revitalization. The 17 Project Areas include those managed by the Redevelopment Department, Centre City Development Corporation and Southeastern Economic Development Corporation. Within the Project Areas, the Agency is actively involved in the development of programs and activities ("Projects") associated with each goal and objective in the Implementation Plans that will contribute to the economic recovery of the City. To implement the Projects, the Agency has made funding commitments and budget allocations based on estimated tax increment revenue and debt financing structures.

#### DISCUSSION

In the current budget environment, the Agency's ability to carry out the Projects may be limited. However, pursuant to Section 33220 of the CRL, certain public bodies, including the City may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment

projects. Historically, the Agency has successfully partnered with the City to implement redevelopment projects throughout the City. Building on this success, the Agency desires to enter into the subject Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Projects (“Agreement” - Attachment 1 to this report) with the City for assistance and cooperation in the implementation and completion of the Projects identified in the Schedule of Projects included as Exhibit 1 to the Agreement.

The Schedule of Projects includes Agency funding for the land acquisition for, and the installation and construction of, certain publicly-owned buildings in the Barrio Logan, Centre City and San Ysidro Project Areas. Pursuant to CRL Section 33445 and 33679, Summary Reports have been prepared (Attachment 4) which describe the costs of the projects to the Agency and the benefits to the respective Project Areas in helping to eliminate blight.

By entering into the Agreement, the City will commit to aid and cooperate with the Agency to expeditiously implement the Projects in accordance with the respective Redevelopment Plans and Implementation Plans for the Project Areas and ensure that the objectives of the Redevelopment Plans and Implementation Plans are fulfilled within the time effectiveness of the Project Areas. In order to ensure the timely implementation and completion of the Projects, the Agency will pledge to provide to the City available Net Tax Increment, other revenue received by the Agency and available fund balances in the current fiscal year and forthcoming fiscal years in amounts equal to the cost to the City to carry out the Projects. The City will provide the Agency with quarterly progress reports on the use of funds and the development and construction of the Projects for which payment is made by the Agency.

“Net Tax Increment” in the Agreement is defined as any tax increment generated from the Project Areas, net of: 1) amounts paid to affected taxing agencies; 2) Redevelopment administration fees charged by the County of San Diego; 3) existing debt service payments; and 4) existing contractual obligations of the Agency or any lawful successor of the Agency. The obligations of the Agency under the Agreement will be paid from Net Tax Increment, other revenue received by the Agency and available fund balances in amounts not less than those set forth in the Payment Schedule attached to the Agreement as Exhibit 2 and otherwise necessary to reimburse the City for the cost to the City of performing its obligations. The Payment Schedule may be revised from time to time as mutually agreed by the City and Agency provided that the revised schedule will allow the timely completion of the Projects in conformity with the Redevelopment Plans and the Implementation Plans.

The obligations of the Agency will constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plans for the Project Areas, which indebtedness will be subordinate to payments due on any bonds, notes or other debt instruments of the Agency incurred or issued to finance the Projects, including any pledge of tax increment revenues from the Project Areas.

### FISCAL CONSIDERATIONS

There is no impact to the General Fund as a result of this action. The obligations of the Agency under the Agreement will be paid from Net Tax Increment, other revenue received by the Agency and available fund balances (“Agency Funds”) in amounts not less than those set forth in the Payment Schedule and as otherwise necessary to reimburse the City for the cost to the City of performing its obligations. Agency Funds from the Project Areas as set forth in the Payment Schedule will be contractually committed in this current fiscal year and forthcoming fiscal years.

## PREVIOUS AGENCY, and/or COMMITTEE ACTION

None for these Actions.

## ENVIRONMENTAL IMPACTS

The proposed approval of the Agreement is not a “project” for purposes of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (CEQA Guidelines) because, consistent with CEQA Guidelines Section 15378(b)(4), the Agreement creates a governmental funding mechanism that does not involve any absolute commitment to any specific project on the City’s part.

To the extent, however, that the Agreement is deemed to be a “project” for purposes of CEQA, environmental review has already been conducted pursuant to CEQA for various projects associated with the Agreement, as described in “CEQA Review” column of the Schedule of Projects attached to the Agreement.

For the balance of the projects associated with the Agreement that have not undergone environmental review, consistent with CEQA Guidelines Section 15004, approval of the Agreement is not the appropriate time to conduct environmental review of such projects because (a) the development concept for such projects has not been formulated to a sufficient level of detail to enable meaningful environmental review at this juncture, (b) environmental review of such projects is thus unripe and too premature at this stage, and (c) consistent with CEQA Guidelines Section 15352, the City is not committed to a definite course of action with regard to any of such projects.

The Agreement provides that, although the Agency is presently committing to provide funds for the projects, the City is not committing to a definite course of action in regard to any project intended to be carried out. The Agreement further provides that the City shall not be obligated to complete any individual project identified in the Schedule of Projects attached to the Agreement if the City later determines that such project is not exempt from CEQA, has not already undergone complete CEQA review, and requires the preparation of a mitigated negative declaration, environmental impact report (“EIR”) or supplemental or subsequent EIR. In that regard, the Agreement states that the City shall retain the discretion to impose mitigation measures and to adopt project alternatives, consistent with the requirements of CEQA, that may be identified during future environmental review of any specific project.

As reflected in the “CEQA Review” column of the Schedule of Projects attached to the Agreement, it is presently anticipated that various projects listed in the Schedule of Projects will be determined to be exempt from CEQA due to the nature of the proposed development and construction involved in such projects and consistent with prior CEQA protocol used with respect to similar types of redevelopment projects and activities. To cite a few examples for illustrative purposes only, it is anticipated that many of the projects, which involve activities such as completion of upgrades to existing streets and other public facilities and installation of relatively minor improvements such as streetlights, will be categorically exempt from CEQA under CEQA Guidelines Sections 15301, 15302 or 15303, as applicable, and that none of the exceptions set forth in CEQA Guidelines Section 15300.2 will preclude application of the applicable categorical exemption. The City reserves the right under the Agreement, however, to evaluate whether each project is exempt from CEQA based on the prevailing facts and circumstances at such time as the development concept for each project has been formulated to a

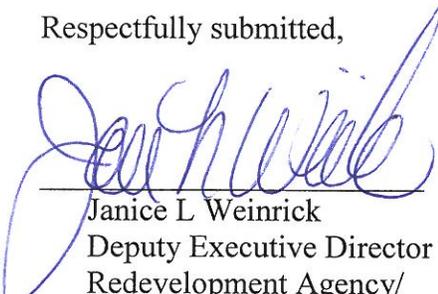
sufficient level of detail to enable meaningful environmental review.

For the reasons discussed above, the approval of the Agreement is in full compliance with the requirements of CEQA and the CEQA Guidelines.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS: The Notice of Public Hearing was published in the San Diego Daily Transcript for two successive weeks before the hearing date, on February 14 and February 22. The Summary Reports (CRL Section 33679) were made available for public inspection and copying during the notice period beginning on February 14 in the office of the City Clerk, the office of the Redevelopment Agency and on the Redevelopment Agency's website at <http://www.sandiego.gov/redevelopment-agency/notices.shtml>. The Project Area Committees ("PAC") have been notified of this action and invited to provide input to the respective Project Managers on priority projects in the Project Areas. For Project Areas that do not have PACs, the Community Planning Committees were notified. Input received from the PACs and the affected Community Planning Committees will be reported at the hearing.

KEY STAKEHOLDERS and PROJECTED IMPACTS: Communities of Centre City, Barrio Logan, City Heights, College Area, Clairemont Mesa, Eastern Area, Encanto, Linda Vista, Midway/Pacific Highway Corridor, Mission Valley, Navajo, North Park, Old Town, Peninsula, San Ysidro, Southeastern, Uptown.

Respectfully submitted,



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Janice L. Weinrick  
Deputy Executive Director  
Redevelopment Agency/  
Director  
Redevelopment Department



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Jay M. Goldstone  
Assistant Executive Director  
Redevelopment Agency /  
Chief Operating Officer  
City of San Diego

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Attachments:

1. Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Projects
2. Determinations (California Health & Safety Code Section 33445)
3. Findings and Determinations of Benefit (California Health & Safety Code Section 33334.2)
4. Summary Reports (California Health & Safety Code Section 33679)