

## REPORT TO REDEVELOPMENT AGENCY

**DATE:** JANUARY 26, 2011

**TO:** HONORABLE CHAIR AND MEMBERS OF THE REDEVELOPMENT AGENCY

**FROM:** GREG RAMIREZ, EXECUTIVE DIRECTOR

**BY:** CHRISTY PINUELAS, FINANCE DIRECTOR

**SUBJECT:** APPROVE RESOLUTION NO. 11-56; PROVIDING FOR THE PAYMENT OF ITS SUPPLEMENTAL EDUCATIONAL REVENUE OBLIGATION FOR FISCAL YEAR 2010-11

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On July 28, 2009, the Governor signed AB X4-26 to address the fiscal emergency declared by the Governor on July 1, 2009. This bill amends the Health and Safety Code to require a \$1.7 billion SERAF shift from redevelopment agencies for Fiscal Year 2009-2010 and a \$350 million SERAF shift for Fiscal Year 2010-11. Per this legislation, the California State Department of Finance has notified the Agency that its payment obligation for the Fiscal Year 2010-11 SERAF shift is two hundred six thousand nine hundred sixty eight dollars (\$206,968).

AB X4-26 also required that the City Council notify the Los Angeles County Auditor by March 1, 2011, as to how the Agency intends to make its Fiscal Year 2010-11 SERAF shift payment. The notification due March 1, 2011, is not a payment deadline. The deadline for payment of the Fiscal Year 2010-2011 SERAF shift is May 10, 2011.

Agency staff recommends that the \$206,968 SERAF shift payment obligation for Fiscal Year 2010-11 be paid with funds, otherwise required to be deposited, in the Agency's housing set-aside fund in Fiscal Year 2010-2011. AB X4-26 allows agencies to loan themselves housing set-aside funds in order to meet their SERAF shift obligation. The Fiscal Year 2010-2011 loan must be repaid to the housing set-aside fund by June 30, 2015. The Agency intends to repay its housing set-aside loan with tax increment revenues that would have otherwise gone to the Agency's redevelopment fund.

### RECOMMENDATION

Staff recommends the Redevelopment Agency approve the attached Resolution No. 11-55, providing for the payment of its supplemental education revenue obligation for Fiscal Year 2010-2011 and approve the letter to the County of Los Angeles Auditor specifying how the Agoura Hills Redevelopment Agency intends to fund its Fiscal Year 2010-11 SERAF shift payment.

Attachments: Resolution No. 11-56  
Letter to the County Auditor

**RESOLUTION NO. 11-56**

**A RESOLUTION OF THE AGOURA HILLS REDEVELOPMENT AGENCY PROVIDING FOR THE PAYMENT OF ITS SUPPLEMENTAL EDUCATIONAL REVENUE OBLIGATION FOR FISCAL YEAR 2010-11**

**THE REDEVELOPMENT AGENCY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:**

**SECTION 1.** The Agency hereby finds, determines and declares as follows:

- (a) Chapter 21 of the Statutes of 2009 (AB X4-26) and Chapter 652 of the Statutes of 2009 (SB 68) enacted Health and Safety Code Section 33690.5 requiring redevelopment agencies in the state to pay certain amounts, for Fiscal Year 2010-11, to the county auditor for deposit into the County's Supplemental Education Revenue Augmentation Fund ("SERAF") (all further references to "sections" shall be to sections of the Health and Safety Code).
- (b) To make the full allocation to SERAF, Section 33690.5(c)(1) authorizes redevelopment agencies to borrow from the amount required to be allocated to the agency's low and moderate income housing fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the low and moderate income housing.
  - 1) In order to borrow from the amounts to be allocated to the fund for payment of SERAF, an agency shall made a finding that there are insufficient other moneys to meet the SERAF payment requirements.
  - 2) Any funds borrowed from the amounts to be allocated to the fund for payment of SERAF shall be repaid in full on or before June 30, 2016.

**SECTION 2.** Pursuant to the provisions of Section 33690.5, the Agency specifically finds and determines that:

- (a) There are not existing executed contracts to which the Agency is a party that would be impaired if the Agency reduced the amount allocated to the Low and Moderate Income Housing Fund by the amount of the required SERAF payment fee.
- (b) There are insufficient other moneys to meet the SERAF payment requirement of Section 33690.5(a).

**SECTION 3.** The Agency hereby approves the borrowing of TWO HUNDRED SIX THOUSAND, NINE HUNDRED AND SIXTY-EIGHT DOLLARS (\$206,968) from the amounts to be allocated to the Fund for the purposes of paying the Agency's SERAF obligation pursuant to Section 33690.5(a). The funds borrowed for payment of SERAF shall be repaid in

full to the Low And Moderate Income Housing Fund on or before June 30, 2016. The Agency hereby appropriates said funds for the purposes of paying the SERAF obligation and authorizes the Executive Director or his designee to make the required SERAF payment to the Los Angeles County Auditor as required by law.

**PASSED, APPROVED, AND ADOPTED** this 26th day of January, 2011, by the following vote to wit:

AYES: (0)  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

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Dan Kuperberg, Chair

ATTEST:

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Kimberly M. Rodrigues, City Clerk

January 26, 2011

Kristina Burns, Manager  
County of Los Angeles  
Community Redevelopment Administration Section  
Property Tax Revision  
500 W. Temple Street, Room 153  
Los Angeles, CA 90012-2706

**RE: SERAF TRANSFER – AGOURA HILLS REDEVELOPMENT AGENCY**

Dear Mrs. Burns:

The Agoura Hills Redevelopment Agency intends to make its Fiscal Year 2010-11 Supplemental Education Revenue Augmentation Fund (SERAF) transfer by wire with funds required to be allocated to the Agency's Low and Moderate Income Housing Fund, by the May 10<sup>th</sup> deadline. Please provide us with wire instructions.

However, as you may know, the validity of the legislation mandating this SERAF transfer has been challenged in litigation, which is presently pending on appeal in the Superior Court for Sacramento County, *California Redevelopment Association et al. v. Genest et al.*, Case No. 34-2009-80000350-CU-WM-GDS (*CRA v. Genest*). This case alleges, among other things, that the duties of county auditors under Health and Safety Code Sections 33690(a) and 33690.5(a) to deposit funds received from redevelopment agencies in County Supplemental Education Revenue Augmentation Funds are inconsistent with various state and federal constitutional provisions and are, therefore, unlawful and unenforceable. The Agoura Hills Redevelopment Agency reserves any rights it may have to withhold the payment of funds to you under Health and Safety Code Section 33690.5(a) or to recover those funds after payment or transfer based on any order or judgment of the Court in *CRA v. Genest*.

We hope to have a decision on the case by the May 10<sup>th</sup> deadline when SERAF payments are due, but, obviously, there is no way we can predict with certainty how long court proceedings will take.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Greg Ramirez  
Executive Director  
Agoura Hills Redevelopment Agency  
30001 Ladyface Court  
Agoura Hills, CA 91301