

TO: James L. App, City Manager  
FROM: Jim Throop, Administrative Services Director  
SUBJECT: RDA – Compliance with AB 4x 26 – State Take-away  
DATE: December 15, 2009

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NEEDS: For the City Council and Redevelopment Agency Board to adopt resolutions approving findings that, due to existing obligations, the Paso Robles Redevelopment Agency will be unable to pay the full amount determined by the state Director of Finance to the Supplemental Educational Revenue Augmentation Fund ("SERAF").

FACTS:

1. AB 4x 26 requires redevelopment agencies to remit to their county SERAF a proportionate share of the \$1.7 billion State take-away for FY10 and an additional State take-away in FY11 of an additional \$350 million. The legality of this bill is being challenged in the courts.
2. The Paso Robles RDA must remit the approximately \$1.2 million by May 10, 2010 to the County SERAF.
3. AB 4x 26 permits an agency to pay less than the determined amount in order to pay existing indebtedness.
4. Existing indebtedness is defined certain specified obligations entered into prior to October 26, 2009, the payment of which is to be made from tax increment and that is required by law or by provision of the existing indebtedness to be made during the Fiscal Year 2009-10.
5. The agency and city council must adopt a resolution making certain findings prior to December 31, 2009.

ANALYSIS &

CONCLUSION: The State Legislature passed AB 4x 26, which in summary, takes over \$2.0 billion dollars from all of the states redevelopment agencies. Each agency was notified of its proportionate share; the Paso Robles Redevelopment Agency's share is approximately \$1.2 million.

AB 4x 26 allows an agency to approve a resolution that states it is unable to make the full payment due to its outstanding indebtedness. However, if the agency is unable to make the full payment, and no other entity (such as the city) makes it on the agency's behalf, it is subject to a "death penalty" provision that, among other things, requires the agency to increase the housing set-aside to 25% for the remainder of it existence and may not do any of the following until the full payment to SERAF is made:

- A. Adopt a new redevelopment plan
- B. Amend an existing plan to add territory
- C. Issue bonds
- D. Encumber additional funds

- E. Expend any monies derived from any source except to pay pre-existing indebtedness, contractual obligations
- F. Only allow 75% of the previous year's expenses on agency administration

The Paso Robles Agency is fortunate to have recently issued bonds as this will still allow it to operate and meet current debt obligations, however continued raids on redevelopment agencies by the State may force the General Fund to assist in making payments.

Should this be the case, the General Fund, already suffering from the continued recession, must now include this possible assistance with the possible \$5.2 million debt payment for the Nacimiento Project, should water rates not be adopted in time.

FISCAL

IMPACT:

This \$1.2 million take-away is a substantial hit to the Agency. The projected tax increment for FY 2010 is approximately \$2.5 million. This take-away is essentially one-half of the full year's tax increment. Without the recently issued bonds, all work would mostly like cease for the FY2010 due to the limited funds remaining. The Agency would be able to make a partial payment to SERAF by borrowing from its Low, Moderate Income Housing fund, per AB 26. This would allow the Agency to make a payment of approximately \$800,000, rather than the \$1.2 million being requested.

Options:

- a. (1) That the Agency adopt Agency Resolution No. 09-XXX making certain findings regarding its inability to make the full amount of the payment to SERAF, as determined by the state Director of Finance; and  
  
(2) That the Council adopt Council Resolution No. 09-XXX making certain findings regarding the Agency's inability to make the full amount of the payment to SERAF, as determined by the state Director of Finance; or
- b. Amend, modify, or reject the above option

Attachment

AGENCY RESOLUTION 09-XXX

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE  
CITY OF EL PASO DE ROBLES MAKING CERTAIN FINDINGS REGARDING  
IT'S INABILITY TO MAKE THE FULL AMOUNT OF PAYMENT  
TO THE COUNTY SUPPLEMENTAL EDUCATIONAL REVENUE AUGMENTATION  
FUND FOR FISCAL YEAR 2009-2010

WHEREAS, the California State Legislature recently enacted AB x4 26, which requires redevelopment agencies to make certain payments to its county Supplemental Educational Revenue Augmentation Fund ("SERAF") in fiscal years 2009-2010 and 2010-2011; and

WHEREAS, the Redevelopment Agency of the City of El Paso de Robles ("Agency") has been notified that its payment to SERAF for 2009-20 will be One Million One Hundred Eighty-Nine Thousand Two Hundred Dollars (\$1,189,200), which payment is required to be made by May 10, 2010; and

WHEREAS, Health and Safety Code section 33691 provides that, if an agency is unable to make its full SERAF payment, it must hold a noticed public hearing and adopt, prior to December 31, 2009, a resolution making certain findings regarding its existing indebtedness, as defined in Health and Safety Code section 33691; and

WHEREAS, a notice of a public hearing was published on December 11, 2009 in the *Tribune*;

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES, AS FOLLOWS:

Section 1. The Agency has been notified by the California state Director of Finance that the Agency shall be required to remit to the county auditor, for payment to SERAF, the amount of One Million One Hundred Eighty-Nine Thousand Two Hundred Dollars (\$1,189,200) for fiscal year 2009-10 (the "Required SERAF Payment"). Based on the amount of existing indebtedness of the Agency, as that term is defined in Health and Safety Code section 33691 and as detailed in Exhibit A to this resolution and incorporated herein by reference, the Agency hereby finds that it is unable to make the full amount of the Required SERAF Payment, and instead, is only able to allocate an amount of EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) to SERAF ("Agency Allocation") out of its Low- and Moderate-Income Housing Fund. The determination is made based on the following facts:

- a. The difference between the Agency Allocation and the amount of the Required SERAF Payment is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the Agency during the 2009-2010 fiscal year, and that are used by the Agency for that purpose, and the Agency has no other funds

that can be used to pay this existing indebtedness and no other feasible method to reduce or avoid this indebtedness.

- b. Exhibit A describes the indebtedness existing prior to the effective date of AB 4x 26, the indebtedness on which a payment is required to be made during fiscal year 2009-2010, the amount and timing of each payment, and the total amount of such payments. Exhibit A was prepared and reviewed for accuracy by the Agency's chief fiscal officer.

Section 2. The finding in this resolution is based on the information currently available to the Agency.

PASSED AND ADOPTED by the Redevelopment Agency of the City of El Paso de Robles this 15th day of December, 2009, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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John Hamon, Chairman

ATTEST:

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Agency Secretary

Attachment A

**Redevelopment Agency - City of Paso Robles, CA  
Indebtedness - FY2010**

<u>Type of Debt</u>	<u>Date of Issuance</u>	<u>Amount of Issuance</u>	<u>Annual Debt Service</u>	<u>Annual Expense</u>	<u>Total Expense</u>	<u>Payment Date</u>
Tax Increment Bond Issue 2009	8/4/2009	\$12,115,000	\$278,667	N/A	\$278,667	July/January
Tax Increment Bond Issue 2000	10/4/2000	\$4,090,000	\$240,181	N/A	\$240,181	July/January
Administrative Costs (90% of FY06)	N/A	N/A	N/A	\$92,887	\$92,887	Dec/Apr
Housing Set-aside **	N/A	N/A	N/A	\$839,705	\$839,705	Dec/Apr
Pass-thru agreements	N/A	N/A	N/A	\$193,419	\$193,419	Dec/Apr
Hidden Creek Village set-aside	N/A	N/A	N/A	\$100,000	\$100,000	Dec/Apr
Uptown/Town Centre Plan	N/A	N/A	N/A	\$600,000	\$600,000	Dec/Apr
Sulfur Hole Repair	N/A	N/A	N/A	\$200,000	\$200,000	Dec/Apr
Chet Dotter Housing - per agreement	N/A	N/A	N/A	\$300,000	\$300,000	Dec/Apr
First Five - SLO COE - per agreement	N/A	N/A	N/A	\$83,000	\$83,000	Dec/Apr
<b>Total</b>		<b><u>\$16,205,000</u></b>	<b><u>\$518,848</u></b>	<b><u>\$2,409,011</u></b>	<b><u>\$2,927,859</u></b>	

\*\* These funds may possibly be used to make a portion of the required SERAF payment.

COUNCIL RESOLUTION 09-XXX

RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF EL PASO DE ROBLES MAKING CERTAIN FINDINGS REGARDING  
THE INABILITY OF THE REDEVELOPMENT AGENCY OF THE CIYT OF PASO  
ROBLES TO MAKE THE FULL AMOUNT OF PAYMENT  
TO THE COUNTY SUPPLEMENTAL EDUCATIONAL REVENUE AUGMENTATION  
FUND FOR FISCAL YEAR 2009-2010

WHEREAS, the California State Legislature recently enacted AB x4 26, which requires redevelopment agencies to make certain payments to its county Supplemental Educational Revenue Augmentation Fund ("SERAF") in fiscal years 2009-2010 and 2010-2011; and

WHEREAS, the Redevelopment Agency of the City of El Paso de Robles ("Agency") has been notified that its payment to SERAF for 2009-20 will be \$1,189,200, which payment would be required to be made by May 10, 2010; and

WHEREAS, Health and Safety Code section 33691 provides that, if an agency is unable to make its full SERAF payment, it must hold a noticed public hearing and adopt, prior to December 31, 2009, a resolution making certain findings regarding its existing indebtedness, as defined in Health and Safety Code section 33691; and

WHEREAS, Health and Safety Code section 33691 additional provides that the legislative body shall adopt a similar resolution making findings similar to those of the agency and

WHEREAS, a notice of a public hearing was published on December 11, 2009 in the *Tribune*;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, AS FOLLOWS:

Section 1. The Agency has been notified by the California state Director of Finance that the Agency shall be required to remit to the county auditor, for payment to SERAF, the amount of One Million One Hundred Eighty-Nine Thousand Two Hundred Dollars (\$1,189,200) for fiscal year 2009-10 (the "Required SERAF Payment"). Based on the amount of existing indebtedness of the Agency, as that term is defined in Health and Safety Code section 33691 and as detailed in Exhibit A to this resolution and incorporated herein by reference, the Agency hereby finds that it is unable to make the full amount of the Required SERAF Payment, and instead, is only able to allocate an amount of Eight Hundred Thousand Dollars (\$800,000) to SERAF ("Agency Allocation") by borrowing from its Low- and Moderate-Income Housing Fund. The determination is made based on the following facts:

- a. The difference between the Agency Allocation and the amount of the Required SERAF Payment is necessary to make payments on existing

indebtedness that are due or required to be committed, set aside, or reserved by the Agency during the 2009-2010 fiscal year, and that are used by the Agency for that purpose, and the Agency has no other funds that can be used to pay this existing indebtedness and no other feasible method to reduce or avoid this indebtedness.

- b. Exhibit A describes the indebtedness existing prior to the effective date of AB 4x 26, the indebtedness on which a payment is required to be made during fiscal year 2009-2010, the amount and timing of each payment, and the total amount of such payments. Exhibit A was prepared and reviewed for accuracy by the Agency's chief fiscal officer.

Section 2. The finding in this resolution is based on the information currently available to the Agency and the City Council.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 15th day of December, 2009, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Duane Picanco, Chairman

ATTEST:

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Lonnie Dolan, Deputy City Clerk

Exhibit A

[to be inserted]



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