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OFFICE OF THE CITY CLERK  
OAKLAND

**REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND  
AGENDA REPORT**

2011 MAY 12 AM 9:27

**To:** Office of the Agency Administrator  
**Attn:** P. Lamont Ewell, Interim Agency Administrator  
**From:** Community and Economic Development Agency  
**Date:** May 24, 2011

**Re:** Agency Resolution Amending Resolutions 2009-0090 C.M.S. and 01-85 C.M.S. to Make Changes to the Amount of the Reduction in the Agency's Voluntary Five Percent Contribution to the Low and Moderate Income Housing Fund for Fiscal Years 2009-10 and Earlier

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**SUMMARY**

A resolution has been prepared for the Redevelopment Agency to make certain accounting adjustments necessary to correct audit findings from the Agency's FY 2009-10 audit. The Agency had authorized the temporary suspension of the voluntary five percent contribution to the Low and Moderate Income Housing Fund in order to make payments to the Supplemental Educational Revenue Augmentation Fund (SERAF). Because actual revenues for FY 2009-10 were less than anticipated, the dollar amount specified in the original authorizing resolution was greater than the actual value of the voluntary five percent contribution. This resolution would amend the original resolution to reduce the dollar amount withheld from the FY 2009-10 contribution to an amount equivalent to the actual five percent, with a corresponding increase in the amount withheld from prior years.

**FISCAL IMPACT**

There is no fiscal impact associated with this resolution. The total amount of money withheld from the voluntary contribution to the Low and Moderate Income Housing Fund is unchanged. The only change is that slightly less comes from FY 2009-10 and instead is deducted from prior year voluntary contributions.

**BACKGROUND**

On December 11, 2001, the Agency adopted Resolution No. 01-85 C.M.S., which established a voluntary contribution to the Low and Moderate Income Housing Fund equal to five percent of the gross tax increment collected each year. This voluntary contribution supplements the State mandated contribution of twenty percent of gross tax increment.

Item: \_\_\_\_\_  
Finance and Management Committee  
May 24, 2011

In July 2009, the state legislature passed AB 26 4x as a budget balancing measure, requiring redevelopment agencies to make payments into the Supplemental Educational Revenue Augmentation Fund (SERAF) for Fiscal Years 2009-10 and 2010-11. The Oakland Redevelopment Agency's required payments were \$41,074,866 in FY 2009-10 and \$8,497,000 in FY 2010-11, for a combined total of nearly \$50 million.

On October 6, 2009, the Agency adopted Resolution No. 2009-0090 C.M.S., which authorized reductions in the voluntary five percent contribution to the Low and Moderate Income Housing Fund in order to make a portion of the required SERAF payments. The intent was to fully suspend the five percent contribution in FY 2009-10 and partially suspend it in FY 2010-11 and in years prior to FY 2009-10 in order to make a total contribution of \$11,134,931 to the SERAF payments. Resolution No. 2009-0090 C.M.S. specifically stated that \$6,034,900 was to be suspended in FY 2009-10, which was the projected amount of the five percent voluntary contribution for that year.

#### KEY ISSUES AND IMPACTS

Actual tax increment revenue for FY 2009-10 was lower than anticipated in the adopted budget. As a result, the actual amount of the five percent voluntary contribution was lower than projected, which meant that the only way that the amount specified by Resolution 2009-0090 C.M.S. could be withheld from contributions to the Low and Moderate Income Housing Fund was to not only suspend the five percent voluntary contribution, but also to reduce the mandatory 20 percent set-aside to a lesser amount.

The Agency's annual audit for Fiscal Year FY 2009-10 included the following finding:

“While the Agency transferred out of the Low and Moderate Income Housing Fund the full amount of voluntary five percent contributions authorized under resolution No. 09-90, there is a shortfall of \$370,086 between the amount authorized for fiscal year 2009/10 (\$6,034,900) and the amount actually contributed for fiscal year 2009/10 (\$5,664,814).

Therefore, it is unclear as to whether the \$370,086 shortfall is considered to be taken from the voluntary five percent contributions made in prior years, or whether it is considered to be taken from the 20% set-aside mandated by the Health and Safety Code. While AB 26 4x allows the use of 20% set-aside as a source for making the SERAF payment, it also requires the repayment of said funds within 5 years otherwise severe consequences are imposed over redevelopment operations.”

If the shortfall is funded from the 20% set aside, the Agency will be obligated to repay those funds to the Low and Moderate Income Housing Fund over the next five years. However, if the resolution is amended to specify that the shortfall is considered to be taken from prior years, such that the amount withheld in each year does not exceed the voluntary five percent contribution, then no repayment is necessary. The audit recommended that the Agency amend Resolution No. 2009-0090 C.M.S. to clarify this distinction.

**POLICY DESCRIPTION**

Given the substantial amounts paid from non-housing Agency funds for the SERAF, it is not feasible to repay funds to the Low and Moderate Income Housing Fund. Therefore, staff proposes to amend Resolution No. 2009-90 C.M.S. to clarify that the amount withheld from FY 2009-10 does not exceed the five percent voluntary contributions, with the shortfall to come from reducing prior year voluntary contributions instead.

**SUSTAINABLE OPPORTUNITIES**

There are no sustainable opportunities associated with this report

**DISABILITY AND SENIOR CITIZEN ACCESS**

There is no impact on disability and senior citizen access as a result of the proposed resolution. It is purely an accounting adjustment.

**RECOMMENDATION(S) AND RATIONALE**

Staff recommends that the Agency approve the accounting adjustments described above. This will correct the audit violation without any additional fiscal impact on either the Agency's housing or non-housing funds.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the Agency adopt the attached resolution to amend Resolutions 01-85 C.M.S. and 2009-0090 C.M.S.

Respectfully submitted,

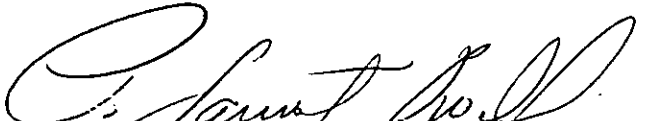


Walter S. Cohen, Director  
Community and Economic Development Agency

Reviewed by:  
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Prepared by:  
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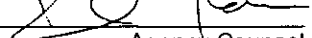
APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:

  
Office of the Agency Administrator

FILED  
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OAKLAND

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Approved as to Form and Legality:

By:   
Agency Counsel

## REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. \_\_\_\_\_ C.M.S.

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**AGENCY RESOLUTION AMENDING RESOLUTION NOS. 2009-0090 C.M.S. AND 01-85 C.M.S. TO MAKE CHANGES TO THE AMOUNT OF THE REDUCTION IN THE AGENCY'S VOLUNTARY FIVE PERCENT CONTRIBUTION TO THE LOW AND MODERATE INCOME HOUSING FUND FOR FISCAL YEARS 2009-10 AND EARLIER**

**WHEREAS**, the Agency adopted its biennial budget for Fiscal Years 2009-2011 on June 30, 2009, Resolution No. 2009-0072 C.M.S.; and

**WHEREAS**, on December 11, 2001, the Redevelopment Agency adopted Resolution Number 01-85 C.M.S. to provide for the deposit annually into the Low and Moderate Income Housing Fund ("LMIHF") of an additional amount equal to five percent of the gross tax increment revenues from all redevelopment project areas, if certain conditions are met; and

**WHEREAS**, on October 6, 2009, the Agency adopted Resolution No. 2009-0090 C.M.S. to amend the Agency's 2009-11 budget and Resolution No. 01-85 C.M.S., thereby authorizing an adjustment to the Agency's five percent voluntary contributions to the LMIHF in order to make required payments to the Supplemental Educational Revenue Augmentation Fund ("SERAF"); and

**WHEREAS**, actual tax increment revenues for FY 2009-10 were lower than anticipated; and

**WHEREAS**, as a result, the amount of reduction authorized by Resolution No. 2009-0090 C.M.S. was greater than five percent of the actual gross tax increment revenue; and

**WHEREAS**, the Agency wishes to adjust the amount of such reductions in FY 2009-10 and in FY 2008-09 such that the reduction in each year does not exceed five percent of actual gross tax increment; now, therefore, be it

**RESOLVED:** That the Agency hereby amends Resolution No. 2009-0090 C.M.S. and Resolution Number 01-85 C.M.S. to establish that the reduction in the Agency's additional contribution of funds to the LMIHF for years prior to FY 2009-10 shall be \$2,862,407, and for FY 2009-10 shall be \$5,664,814, in order to allow these amounts to be used to pay a portion of the SERAF payments for FY 2009-10; and be it

**FURTHER RESOLVED:** That this reduction in the LMIHF, which is authorized solely for the purpose of making the state-required SERAF payment, in no way changes the Redevelopment Agency's commitment to its policy of voluntarily contributing an additional five percent of gross tax increment to the LMIHF in subsequent years when SERAF payments are not required.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF,  
AND CHAIRPERSON REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
Secretary of the Redevelopment Agency  
of the City of Oakland, California