



## Redevelopment Agency Staff Report

DATE: March 25, 2009 CONSENT CALENDAR

SUBJECT: STATE-MANDATED PAYMENT TO THE EDUCATIONAL REVENUE AUGMENTATION FUND (ERAF)

FROM: David H. Ready, City Manager/Executive Director

BY: Thomas Wilson, Assistant City Manager

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### SUMMARY:

Assembly Bill 1389, adopted by the State Legislature as part of the 2008-09 Budget, requires the Community Redevelopment Agency of the City of Palm Springs to make a payment to the Education Revenue Augmentation Fund (ERAF) on or before May 10, 2009. Assembly Bill 1389 provides that an agency may borrow certain amounts from its low-and-moderate income housing fund (Housing Fund) to make this payment.

### RECOMMENDATION:

1. Adopt Resolution No. \_\_\_\_\_, "RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, MAKING CERTAIN FINDINGS WITH RESPECT TO THE 2008-09 PAYMENT TO THE EDUCATIONAL REVENUE AUGMENTATION FUND AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO."
2. Adopt Resolution No. \_\_\_\_\_, "A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING HE BUDGET FOR FISCAL YEAR 2008-09."

### FISCAL IMPACT:

As part of the effort to reduce the 2008-09 State budget deficit, the legislature adopted Assembly Bill 1389 (AB 1389), which included a property tax shift from redevelopment agencies for fiscal year 2008-09. AB 1389 was signed by the Governor on September 30, 2008, and took effect immediately as an urgency statute for the State Budget. Among other things, AB 1389 added Section 33685 to the to the Health and Safety Code of the State of California (Law), which requires redevelopment agencies to shift \$350 million in property tax increment revenues to K-12 schools and community colleges during the fiscal year 2008-09. The effect of this transfer is to increase local

ITEM NO. RA3.

school district revenue and thereby reduce the financial support from the State. The Law requires redevelopment agencies to make the payment prior to May 10, 2009, to the county ERAF. If the Agency does not remit the full amount or fails to arrange for full payment, the Agency would be prohibited from adding new project areas or expanding existing project areas; from issuing new bonds, notes, or other obligations, as specified; and from encumbering any funds or expending any money for new projects or contracts derived from any source except as specified.

The payment required to be made by the Agency to the Riverside County Educational Revenue Augmentation Fund is \$864,927.

Pursuant to Section 33685 (b)(1) of the Law, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6 of the Law. If the resolution is approved, the Agency will be authorized to borrow the funds necessary to make the ERAF payment from the Housing Fund. As a condition of borrowing from the Housing Fund, the Agency must make a finding that there are insufficient other moneys to meet the ERAF requirements. If the resolution is approved, funds borrowed from the Housing Fund will be repaid in full within 10 years following the date on which moneys are remitted to the Riverside County Educational Revenue Augmentation Fund.

The loan amount of \$864,927 is less than 50% of \$3.6 million tax increment money required to be allocated to the Housing Fund in 2008-09, and meets the requirement of Section 33685(b)(1) of the Law. The Agency will not use any funds on deposit in the Housing Fund as of July 1, 2008, but will make the loan from current year tax increment deposits to the Housing Fund.

The Agency finds that the loan is necessary to meet the Agency's obligation to pay the 2008-09 ERAF. Agency funds in the Debt Service and Capital Improvement Funds have been earmarked for existing bonded debt obligations, payment under development agreements and payments under property acquisition agreements with the City as described below.


In addition to its bonded indebtedness and tax sharing obligations, the Agency has obligations relating to the Springs development (remediation costs) as well as the College of the Desert campus. The Agency must reserve approximately \$3.4 million of its fund balances to meet these obligations. A further \$1 million of the Agency's current funds is designated for existing Plaza Theater obligations.

The Agency also purchased several properties from the City in 2007. Due to the current economic crisis, the City's general fund has suffered significant reductions in transient occupancy taxes and sales taxes, among other revenues. If the Agency does not make the full payment of interest due under the property acquisition agreements in 2008-09 and 2009-10, the City's ability to fund essential City services will be impaired. Therefore, the Agency must also reserve the balance of its currently available funds to secure the payments due under the agreements with the City. As a result, the existing

fund balances in the Agency's Capital Improvement Fund and Debt Service Fund are not available to make the ERAF payment.

A budget amendment in the amount of \$864,927 is required to reflect the loan and the ERAF payment, as this takeaway of funds was approved by the State in September 2008, after the Agency budget was adopted.

The California Redevelopment Association (CRA) and several cities have filed a lawsuit against the State, alleging that the budget legislation demanding the ERAF payment violated several provisions of the State Constitution. It is unlikely that the lawsuit will be settled before the payment is required to be made. In order to recognize that the payments are being challenged in court, CRA recommends that language to this effect be included in the formal transmittals to the county auditors.

  
THOMAS WILSON, ASST. CITY MGR.

  
DAVID H. READY, CITY MANGER

Attachments:  
Resolutions (2)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, MAKING CERTAIN FINDINGS WITH RESPECT TO THE 2008-09 PAYMENT TO THE EDUCATIONAL REVENUE AUGMENTATION FUND AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO

The Community Redevelopment Agency of the City of Palm Springs finds:

A. Assembly Bill 1389, adopted by the State Legislature in September 2008 and signed by the Governor on September 30, 2008, added Section 33685 to the Health and Safety Code of the State of California (the "Law").

B. Section 33685(a)(1) of the Law requires redevelopment agencies to make a payment on or before May 10, 2009 to the county Educational Revenue Augmentation Fund.

C. The amount required by Section 33685(a)(1) of the Law to be paid by the Community Redevelopment Agency of the City of Palm Springs (the "Agency") is \$864,927.

D. Pursuant to Section 33685 (b)(1), an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6 of the Law if the agency finds that there are insufficient funds to meet this obligation.

E. Agency funds in its Debt Service and Capital Improvement Funds have been earmarked for existing bonded debt obligations, payment under development agreements and payments under property acquisition agreements with the City.

F. In addition to its bonded indebtedness and tax sharing obligations, the Agency has obligations relating to the Springs development (remediation costs) as well as the College of the Desert campus.

G. If the Agency does not reserve the balance of its currently available funds to secure the payments due under the agreements with the City, the City's ability to fund essential City services will be impaired.

H. Based on obligations described in Findings E, F and G of this resolution, there are insufficient funds to meet the requirements of Section 33685(a) of the Law and the Agency will borrow the amount required from the Low and Moderate Income Housing Fund.

I. The Agency's payment to the county Educational Revenue Augmentation Fund and the borrowing from the Low and Moderate Income Housing Fund is less than

50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6 of the Law.

J. The Agency must repay amounts so borrowed within 10 years from the date of the payment to the county Educational Revenue Augmentation.

NOW, THEREFORE, BE IT RESOLVED by the Community Redevelopment Agency of the City of Palm Springs, as follows:

SECTION 1. Loan. The Agency hereby approves a loan from the Agency's Low and Moderate Income Housing Fund in the amount of \$864,927 to pay the amount due pursuant to Section 33685(a) of the Law. No moneys held in Agency's Low and Moderate Income Housing Fund as of July 1, 2008 will be used to provide funds for such loan.

SECTION 2. Repayment. The Agency will repay such amounts to the Low and Moderate Income Housing Fund no later than 10 years after the date of the payment to the Riverside County Educational Revenue Augmentation Fund, without interest.

SECTION 3. Subordination. The obligation of the Agency to repay the Low and Moderate Income Housing Fund shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the Agency including, without limitation, bonds secured by a pledge of taxes allocated to the Agency pursuant to Section 33670 of the Law. The Agency shall factor in the fiscal obligations created by this Resolution when issuing bonded indebtedness.

SECTION 4. Budget and Appropriate. The Agency's 2008-09 budget is hereby amended to include the loan from the Low and Moderate Income Housing Fund and the corresponding payment to the Riverside County Educational Revenue Augmentation Fund.

SECTION 5. Effective Date. This resolution shall take effect from and after the date of approval and adoption thereof.

PASSED AND ADOPTED THIS 25<sup>TH</sup> DAY OF MARCH, 2009.

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David H. Ready, Executive Director

ATTEST:

\_\_\_\_\_  
James Thompson, City Clerk  
Assistant Secretary

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. \_\_\_\_\_ is a full, true and correct copy, and was duly adopted at a regular meeting of the Community Redevelopment Agency of the City of Palm Springs on the 25<sup>th</sup> day of March, 2009 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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James Thompson, City Clerk  
City of Palm Springs, California

RESOLUTION NO.

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2008-09.

WHEREAS, Resolution No. 1365 approving the budget for the Fiscal Year 2008-09 was adopted on June 18, 2008; and

WHEREAS, the Executive Director has recommended, and the Agency Board desires to approve, certain amendments to said budget;

NOW THEREFORE BE IT RESOLVED that the Director of Finance is authorized to record inter-fund cash transfers as required in accordance with this Resolution, and that Resolution 1365, adopting the Fiscal Year 2008-09 Budget is hereby amended as follows:

SECTION 1. ADDITIONS

| Fund                  | Activity                          | Account       | Amount    |
|-----------------------|-----------------------------------|---------------|-----------|
| 851<br>Merged Area #1 | 8201 Central<br>Business District | 65013<br>ERAF | \$864,927 |

Purpose: To provide funding for FY 08-09 ERAF payment. The Low/Mod Housing fund will loan the funds at zero interest rate, to be repaid in ten years.

SECTION 2. SOURCE

| Fund                   | Activity | Account               | Amount    |
|------------------------|----------|-----------------------|-----------|
| 882<br>Low/Mod Housing |          | 29301<br>Fund Balance | \$864,927 |

ADOPTED this 25th day of March, 2009.

\_\_\_\_\_  
David H. Ready, Executive Director

ATTEST:

\_\_\_\_\_  
James Thompson, Assistant Secretary

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, Assistant Secretary of the Community Redevelopment Agency of the City of Palm Springs, hereby certify that Resolution No. \_\_\_\_\_ is a full, true and correct copy, and was duly adopted at an adjourned meeting of the Community Redevelopment Agency of the City of Palm Springs on \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
James Thompson, Assistant Secretary  
Community Redevelopment Agency  
City of Palm Springs, California