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Redevelopment Agency

Item # 3

To: Lemoore City Council and Redevelopment Agency Board
From: Jeff Brittz, Executive Director
Date: January 24, 2011
Subject: Protecting RDA Tax Increment - Update

Discussion:

On Tuesday afternoon, we have a Special Meeting for a discussion concerning how best to protect our future tax increment in light of Governor Brown's proposal to essentially eliminate Redevelopment in California.

A. Tax Increment Bond Issue

The first part of the discussion is expected to be focused on the progress made in preparing for a 2011 Bond Issue. Marshall Linn of Urban Futures, the City and Agency's Financial Advisor, will be in attendance to review the latest information, including the recommended schedule, issuance team, and options available. We will also discuss some of the possible uses and limitations of issuance proceeds. Marshall is the most qualified person available to answer many of the questions and assist with providing guidance on this topic.

Keep in mind that while I am confident that issuing debt now is the most secure way of obligating future increment, it is not without costs and restrictions. First, realize there will be an initial cost of issuance of the debt associated with underwriting, marketing and selling the bonds, legal counsel, etc. Consultants on the issuance team work on contingency, and are not paid until bonds are sold. I have been assured that no hard costs to the Agency will be incurred until after your February 15th meeting, if hard costs are even required at all. However, significant amounts of staff time have already begun, and will continue through the sale of the bonds.

Another restriction to consider is the use limitations of tax exempt bond proceeds. First, no more than 10% of the proceeds can be used for private business activities. Secondly, no more than 5% of the proceeds can be used for loans. Third, 20% of the proceeds must be used for Low/Moderate Housing Programs. Finally, uses of the proceeds need to be identified in the Official Statement, and should be projects the Agency can initiate in the next three years. Because of these restrictions, staff will be developing for the Board's consideration a list of projects primarily focused on infrastructure requirements. We are hopeful we can have a list for you to begin prioritizing at your February 1 meeting.

We should plan on discussing Tuesday the extent in which you want to leverage the increment forecast. It is likely that the Agency can issue as much as \$35,000,000 in new debt, which will consume about 80% of the increment at risk. The Board may wish to consider issuing a smaller amount, to allow for more unencumbered increment to flow, should the Governor's proposal fail to materialize. The tax increment itself does not contain some of the limitations of a tax exempt bond issuance, and therefore, the increment itself is more valuable due to its flexibility, assuming it is available.

B. Establishment of a Housing Authority

The second part of the discussion is related to the Low/Moderate Income (LMI) Housing Funds. The Governor's proposal, as it relates to the 20% set aside, was very carefully crafted, as the housing advocates are politically powerful in Sacramento.

It should be noted that the Governor's proposal primarily affects non-housing redevelopment funds. With respect to housing funds, the Governor has proposed that LMI Housing Fund responsibilities be transferred to a local housing authority. The Governor's budget assumes that the local housing authority will use the LMI Housing Funds for activities that would otherwise have been eligible for funding from redevelopment agencies.

Given the foregoing and in an effort to continue to achieve the goals established the City's redevelopment agency and other housing policies established by the Housing Element of the general plan, it is recommended that the City Council consider the establishment of a housing authority pursuant to the California Housing Authority Law. Exhibit "A" describes the purpose and governance, activation procedure, powers and duties of a housing authority. The intent of the recommendation to create a housing authority is to maintain, to the extent feasible, local control over what are now Agency housing responsibilities and the financial resources that are related thereto.

Once established, the Agency could enter into a contract with the Housing Authority wherein all or a portion of the Agency's LMI Housing Funds could be transferred to the Housing Authority to manage the Agency's existing and proposed affordable housing programs. If the Agency decides to transfer all or a portion of its LMI Housing Funds to the Housing Authority, then the transferred money, if any, would no longer be an asset of the Agency and instead would become an asset of the Housing Authority.

The City could begin the process of establishing its own Housing Authority by adopting a resolution. Absent the formation of our own Housing Authority, the LMI funds now flowing to the Agency through tax increment, should the Governor's proposal become enacted, become resources for the Housing Authority of Kings County. In that case, the City will not have a formal mechanism for controlling the uses of those funds, including whether or not the funds are even used in Lemoore.

Marshall Linn of Urban Futures is prepared to advise you further on this option.

C. Influencing the Legislative and Budget Process

One of the key recommendations coming from the League of California Cities and the California Redevelopment Association is to get in front of this proposal and make sure the public and our legislators know the importance of Redevelopment in Lemoore.

Staff seeks direction from the Board regarding placement of a Resolution on a future agenda opposing the Governor's Redevelopment Proposal, as well as the level of lobbying activity you wish we be engaged in at this time. I would suggest that as elected officials, your personal, direct influence with the public, and our representatives in Sacramento are likely to have the most significant impact. Phone calls, letters, and visits are all important. Additionally, you may wish to provide specific direction on how you would like the City's Governmental Affairs Consultant, Steve Samuelian to help deliver your message.

Budget Impact:

Very significant. Staff's initial estimate is that approximately \$3.3 M annually is at risk with the Governor's proposal.

Recommendation:

Provide sufficient direction to staff on the tax increment bond issue, formation of a housing authority, and legislative influence.

Purpose and Governance; Activation Procedure; Powers and Duties of a Housing Authority.

I. Purpose and Governance

The California “Housing Authority Law” (California Health & Safety Code § 34200 *et seq.*) automatically creates a dormant Housing Authority in every city and county. In order for the City Housing Authority to transact business and exercise its powers, a city (“City”) must activate its Housing Authority through certain procedures explained herein. A Housing Authority collaborates with public, private and non-profit entities agencies for the purpose of providing sanitary and safe housing for people of very low, low or moderate income within a city or county’s territorial jurisdiction. The core activities of many Housing Authorities are primarily to build, acquire, own, manage and maintain residential rental units and to provide financial assistance for rentals or ownership in the private real estate market. A Housing Authority is governed by the state Housing Authority Law, and for purposes of major federal funding, if any is received, regulations of the U.S. Department of Housing and Urban Development (“HUD”). Further, a Housing Authority is not required under the Housing Authority Law to seek HUD or any other type of outside funding.

Once activated, a Housing Authority consists of at least five (5) commissioners and shares functions similar to other governmental entities: it can sue and be sued; make and execute contracts; partner with other Housing Authorities or other governmental agencies; and make, amend, and repeal by-laws and regulations to carry into effect its powers and purposes. A housing commission may also be formed to review and provide recommendations on all matters to come before the Housing Authority.

II. Activation Procedure

As mentioned above, a Housing Authority already exists in every county and city. In order to activate the City’s Housing Authority, the City Council first needs to adopt a resolution containing certain findings. Second, commissioners must be appointed to serve on the Housing Authority.

A. Adoption of Resolution

In order for the City Housing Authority to beginning conducting transactions and exercising its powers, the City Council must first adopt a resolution declaring a need for the Housing Authority. The resolution must also contain at least one of the following findings:

- (1) that unsanitary or unsafe inhabited dwelling accommodations exist in the City; and/or
- (2) there is a shortage of safe or sanitary dwelling accommodations in the City available to persons of low income at rentals they can afford.

In determining whether dwelling accommodations are “unsafe or unsanitary,” the City Council may consider:

- a. the degree of overcrowding;
- b. the percentage of land coverage;
- c. the light, air, space and access available to the inhabitants of such dwelling accommodations;
- d. the size and arrangement of the rooms;
- e. the sanitary facilities; and
- f. the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

Adopting the resolution with the finding(s) is a relatively easy process which can be completed in one or two City Council meetings.

B. Appointment of a Board of Commissioners

Once the City Council adopts the resolution including the finding(s), commissioners must be chosen to serve on the City Housing Authority. This can be done in two ways, depending on the City’s preference:

(1) Mayor Appoints Commissioners

Because the Mayor in the City is independently elected, the Mayor may appoint five (5) commissioners, subject to confirmation by a majority of the City Council.

(2) City Council as Commissioners

Alternatively, the City Council may declare itself to be the commissioners of the City Housing Authority at the time the above-referenced resolution is adopted or anytime thereafter. Under this option, all rights, powers, duties, privileges and immunities of the commissioners are vested in the City Council. At any time the City Council may, by resolution, stop functioning as the commissioners and the Mayor will appoint replacement commissioners.

III. Powers and Duties

A. Powers

Housing Authority Law grants a Housing Authority several powers in carrying out its goal. Specifically, a Housing Authority has the power to:

- a. prepare, carry out, acquire, lease and operate low-income housing projects and housing developments;
- b. provide for the construction, reconstruction, improvement, alteration or repair of any housing project;
- c. provide leased housing to persons of low income;
- d. provide financing for the acquisition, construction, rehabilitation, refinancing or development of dwelling accommodations for persons of low income;
- e. provide counseling, referral, and advisory services to low or moderate income persons and families in connection with the purchase, rental, occupancy, maintenance or repair of housing;
- f. provide security for the protection of a project and its inhabitants;
- g. provide financial assistance for housing projects pursuant to Health and Safety Code Section 34312.3 (which permits a Housing Authority to issue revenue bonds, construction loans, mortgage loans etc. for specific purposes and subject to certain requirements);
- h. acquire, plan, undertake, construct, improve, develop, maintain and operate land with mobile homes, so long as no less than twenty (20) percent of the mobile homes are designated for or are occupied by persons of low income; and
- i. lease, rent, own, improve, sell, exchange, transfer and acquire real or personal property.

The broad definition of “housing project” permits these powers to encompass many types of work in the community. For example, a Housing Authority can participate in projects to demolish, clear, or remove buildings from any slum area, which may embrace the adaptation of the area to public purposes, including parks or other recreational or community purposes. A Housing Authority’s effort to provide decent, safe and sanitary living accommodations may also include work on buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes. Consequently, a City Housing Authority is empowered to engage in a variety of activities to assist in the development of affordable rental and ownership housing. Depending on the facts, a City Housing Authority may be able to use its powers to assist traditional housing projects, including mixed use projects, and to provide infrastructure improvements necessary to support housing projects.

B. Duties

Although the duties of a Housing Authority are not all necessarily prescribed by statute, on-going functions of a Housing Authority often include:

- a. assuring compliance with leases
- b. setting charges (e.g., security deposit, excess utility consumption, and damages to unit);

- c. performing periodic reexaminations of the family's income at least once every twelve (12) months;
- d. transferring families from one unit to another, in order to correct over/under crowding, repair or renovate a dwelling, or because of a resident's request to be transferred;
- e. terminating leases when necessary; and
- f. maintaining housing developments in a decent, safe, and sanitary condition.

Additionally, affirmative duties are often triggered by agreements where the Housing Authority receives loans or grants from local, state or federal agencies. However, Housing Authorities are not required to seek such funding.