33

RESOLUTION NO. 82-167

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

March 9, 1982

FINDINGS RELATING TO PROPOSED MERGER OF
REDEVELOPMENT PROJECTS NOS. 2-A, 3, 4 AND 8

WHEREAS, by Resolution of even date herewith, the Redevelopment Agency of the City of Sacramento has instructed the Interim Executive Director to prepare the necessary documentation and proceed with the amendment process leading to a merger of Redevelopment Projects Nos. 2-A, 3, 4 and 8 of the City of Sacramento; and

WHEREAS, this merger will be effectuated pursuant to the provisions of Article 12 of the Community Redevelopment Law (Health and Safety Code §33450, et seq.); and

WHEREAS, the merger is sought for administrative purposes only and will not materially affect the scope of any of the individual Projects.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. The Council finds and declares that the reports and information required by California Health and Safety Code Section 33352 with respect to enactment of redevelopment plans and required in certain instances by California Health and Safety Code Section 33457.1 in the amendment of redevelopment plans, are not warranted by the facts and circumstances surrounding the proposed merger.

MAYOR

ATTEST:

CITY CLERK

APPROVED
BY THE CITY COUNCIL

MAR 9 1982

OFFICE OF THE
CITY CLERK

C

RESOLUTION NO. 82-012

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF

March 9, 1982

TAX INCREMENT FINANCING PLAN
1982-1986

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1. The financing plan for 1982 including activities and funding levels as described in Exhibit II, is hereby approved, subject to subsequent approvals of specific programs.

Section 2. The financing plans for 1983-1986 as described in Exhibit II is hereby approved in concept only, subject to annual updates and further planning.

Section 3. The Interim Executive Director is authorized to proceed under State law to merge Projects Nos. 2-A, 3, 4 and 8.

CHAIRMAN

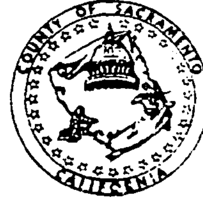
ATTEST:

SECRETARY

APPROVED
SACRAMENTO REDEVELOPMENT AGENCY
CITY OF SACRAMENTO
MAR 9 1982

bab

D



SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

January 4, 1982

Redevelopment Agency of the
City of Sacramento
Sacramento, California

Honorable Members in Session:

SUBJECT: Utilization of Tax Increment Funds in Years 1982-1986

SUMMARY

This report recommends the establishment of priority projects, funding levels and a timetable for the expenditure of tax increment funds in the years 1982-1986. It recommends the expenditure of funds for replacement housing, the establishment of a revolving loan fund for acquisition of selected owner participation projects that are not being developed, the preparation of plans, specifications and construction of Phase I and II of the Old Sacramento Waterfront to act as a catalyst for water-oriented commercial developers and the preparation of plans, specifications and construction of the "U" garage next to the Travelers' Hotel. The overall plan is consistent with previous staff recommendations. The report also includes answers to nine questions raised by the Budget and Finance Committee (see Exhibit I).

This report, for the first time, presents tentative priorities for the allocation of tax increment funds over the next five-year period. It is a guideline that, upon adoption, will require yearly updates and specific program proposals. Further refinement can be expected in the future and adjustments made through more detailed planning.

BACKGROUND

A staff report dated August 4, 1981 (which had been approved by the Sacramento Housing and Redevelopment Agency (SHRA) Commission) was reviewed by the Budget and Finance Committee on September 1, 1981.

RECOMMENDED FINANCING PLAN 1982-1986

The recommended financing plan is similar to and consistent with the earlier staff report of August 4, 1981, except for the following:

1. Revenue Estimates Are Up

   The revenue projects of the August 4th report relied on the 1981 budget. This report incorporates revenues from the 1982 preliminary Agency budget. The 1982 figures are generally higher than those projected earlier.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

2. Housing Mortgage Revenue Bond Funds Eliminated

As noted in the August 4th report, a total of $1.2 million was recommended for use as a local City share in the event the City and County Mortgage Revenue Bond Program had to have a local injection of funds in order for the program to function. A number of other California cities are contemplating local cash infusions into similar programs. This activity, however, is being recommended for deletion because other portions of a local match were not available and the Agency's bond underwriter has developed a funding mechanism that relies on cash infusions by developers. Local Sacramento developers who are interested have signed up, placed cash deposits with the Agency and have agreed to this approach.

3. "U" Garage

The "U" garage is being recommended to be paid for in cash (50% City, 50% tax increment-Agency) accumulated from operating revenues and deposited in the parking facility account rather than a combination of cash and lease revenue bonds as recommended earlier. This approach is being recommended because of the greater availability of funds than projected earlier, it is more cost-effective and the Agency receives an immediate cash return on investment.

4. Waterfront

The construction of Phase I and II is accelerated to begin in late 1982 instead of stretched out in sub-phases through 1984. This was done because of the greater availability of funds, need to reduce costs where possible due to inflation, and to act as an immediate catalyst for private developers. It should be noted that Phases III and IV are not recommended at this time. Staff is recommending an incremental approach for financing these later phases, e.g., local tax increment funds may be leveraged against Federal or State grants or the private sector.

5. Old Sacramento Handicap Access

The problem of handicap access in Old Sacramento is being handled by the Engineering Department of the City. A consultant's study, recently completed, indicated that a total of $435,000 will be needed for corrections in Old Sacramento to meet various Federal and State regulations. This cost is broken down as follows:

Ramps	$ 45,000
Boardwalks	$ 73,000
Alleys and Streets	$317,000

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Because of the need to comply under the law, $435,000 is being recommended to allow for handicap access in Old Sacramento.

GENERAL STRATEGY

1. This staff report, consistent with the August 4th recommendations, continues to place a major emphasis on replacement housing for low and moderate income persons. Cutbacks by the present Administration will probably continue for the next few years and therefore local tax increments may be the only source of funds for housing. However, the manner in which these housing funds will be utilized will likely be different than before. In the future, the local tax increment funds will be used, whenever possible, to leverage other outside funds, e.g., various private and public partnerships will have to be researched and developed by the newly-created Policy and Planning Unit. Financing mechanisms such as (if available) the use of SB 99 commercial and residential mixed use project to utilize a below-market interest rate loan and further reduce the interest rate by the use of tax increment as a write down, is an example of a possible public/private partnership. Specialized housing such as congregate living to fill in the gap between the Agency's regular housing programs and private convalescent care will be researched and recommended if appropriate.

2. Projects that create economic activity to the community and Agency are also being recommended. These include the funding of Phase I and II of the Old Sacramento Waterfront which can act as a catalyst to spur private additional development of commercial, office and riverfront uses. The funding of the "U" garage on the Travelers' Hotel block will not only fulfill a legal commitment but enable the Agency to obtain a direct and immediate cash return on its investment without resorting to expensive bonds or other debt financing. Placing a portion of the Agency's tax increment portfolio into economic activities which not only benefit the community but benefit the Agency as well seems to make good sense in these uncertain times and in an era of diminshing resources.

The following are the recommended projects, priorities and funding levels with the adjustments as outlined in this report.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

RECOMMENDED FINANCING PLAN 1982-1986

Year	Amount Available		Activities (Uses of Resources)	Estimated Cost
1982	Carryover 1982 Fund Balance	$7,143,806	Items in Agency 1982 Preliminary Budget:	
	1982 Estimated Revenue	5,368,530	Operating Expenditures	$1,478,019
	Total Resource	$12,512,336	Debt Service	574,610 1/
			Capital Improvement:	
			Replacement Housing	3,500,000
			Waterfront Plan	1,600,000 1/
			Garage Art Work	300,000 1/
			Parking Control Equipment	187,000 1/
				$7,639,629
			Additional Proposed Item:	
			Agency Revolving Loan Fund	1,500,000
			Reserves:	
			Committed to Debt Service	379,430 1/
			Contingency	100,000
			Available for 1983	2,893,277
1983	$4,214,613	(carryover from	a. Agency Replacement Housing	$1,000,000
	+2,893,277	1982 reserves)	b. Waterfront, Phase II	5,599,528
	$7,107,890		c. Handicap access for Old Sacramento	435,000
			d. Reserves	73,312
1984	$4,157,502	(carryover from	a. Agency Replacement Housing	$1,000,000
	+ 73,312	1983 reserves)	b. Preparation of Plans and Specifications for "U" Garage	400,000
	$4,230,814		c. Reserves	2,830,814
1985	$4,786,977	(carryover from	a. Agency Replacement Housing	$5,000,000
	+2,830,814	1984 reserves)	b. Construction of "U" Garage	2,300,000 2/
	$7,617,791		c. Reserves	317,791
1986	$4,486,958	(carryover from	a. Agency Replacement Housing	$3,500,000
	+ 317,791	1985 reserves)	b. Reserves	1,304,749
	$4,804,749			

1/ Previously approved by Council action.

2/ $5,000,000 (total cost) - $400,000 (plans) = $4.6 ÷ 2 = $2.3 million as Agency share. City to pay $2.3 million.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

REPORTS

The following are answers to questions raised by the Budget and Finance Committee:

1. Exhibit II is transmittal of material received and reviewed by the Housing and Redevelopment Commission.

2. Exhibit III is the Agency Counsel's legal opinion on permitted uses for tax increment funds.

   A. In summary, the appropriate criteria for the determination of whether a given expenditure is a permissible use of tax increment funds are as follows:

      (1) The expenditure must be in repayment of an "indebtedness" which is (a) for redevelopment activity as defined in Section 33678(b) and (b) is a contractual obligation which, if breached, would subject the Agency to damages of other liabilities or remedies; and

      (1) The expenditure (a) shall be made pursuant to a general or specific grant of substantive or programmatic power and shall be capable of implementation under the grant of administrative or ministerial power, and (b) shall not have been specifically prohibited by the Agency.

      Any proposed expenditure failing to meet both of the above criteria shall be an impermissible expenditure of tax increment funds.

   B. Report No. 3 concerns the "Fazio legislation" as it relates to the proposed use of tax increments for housing.

      As noted in Exhibit III, Opinion of Counsel, Page 10, the "Fazio legislation" allows the merger of existing Redevelopment Project Areas only within the City of Sacramento in order to allow the expenditure of tax increment funds from one Project Area to another Project Area subject to certain conditions. To date, this merger has not occurred and therefore there is no effect.

      The "Fazio legislation" (33460) has been subsequently modified with Article 16 which contains provisions for the merger of Project Areas on a State-wide basis. Section 33489 gives Article 16 the exclusive authority for merger of Redevelopment Project Areas after January 1, 1981. This Article provides for the merger of Redevelopment Project Areas if they result

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

in substantial benefit to the public and assist in the revitalization of blighted areas. Twenty percent (20%) of all tax increments shall be used for the construction or rehabilitation of housing units for very low, low and moderate income persons for a period of no less than 30 years. Construction and rehabilitation also includes subsidies necessary to provide housing for very low, low and moderate income households. The Agency may use the housing funds inside or outside the Project Area. A merger of Project Nos. 2-A, 3, 4 and 8 are recommended as a part of the financing plan. A staff report will be prepared upon approval of this report with specific recommendations pertaining to this merger.

3. Report No. 4 is the Historical Displacement of Housing Units and Payment of Relocation Costs since the inception of the project.

   According to the staff memo contained in Appendix IV, the total estimated number of dwelling units demolished is 1,845 with relocation payments totaling $1,501,188.

4. Report No. 5 is the use of tax increments for certain operating expenditures such as street sweeping and police services.

   There does not appear to be any general or specific legislative authority which would allow Redevelopment Agencies to maintain a program for street sweeping or police services. Further, there is no indication of any contractual obligation, the breach of which would give rise to damages or other remedies.

   Since the findings above do not satisfy both of the tests as defined by Legal Counsel, we conclude the use of tax increments for street sweeping and police services is not legally permitted.

   Activities such as street sweeping or police services could be funded by using tax increments for capital improvement projects in Redevelopment Project Areas which have been previously earmarked to be funded by general revenue sources. These general revenue monies could then be used for operations. The substitition of tax increments to pay for a portion of the City of Sacramento's contribution towards the Museum and History Museum in Old Sacramento is an example of this approach.

5. Report No. 6 is the use of tax increments to finance proposed City capital improvement projects.

   Jack Crist, Director of Finance, in a memo dated December 16, 1981 states that he has reviewed the City of Sacramento's preliminary

1981-1982 Capital Improvement Program, keeping in mind the Chief Counsel's legal opinion including the need for attached indebtedness and non-operating uses, and concludes there are no City capital improvement projects currently planned which could be funded by tax increments in Redevelopment Project Areas. However, he did suggest financing of the "U" garage which is already included in the recommended Plan as well as the new History Center which is not recommended as a priority at this time.

6. Report No. 7 concerns feasibility of funding the parking structure ("U" garage) from operational revenues from the Operating Parking Fund.

   Les Frink, Traffic Engineer, estimates the "U" garage to cost approximately $5 million in 1984 and his memo dated October 15, 1981 (Appendix V) indicates that assuming a 50% split of the cost between the Agency and City (similar to I-5 garage) there would be sufficient funds available from operating revenues to pay cash for the garage. The Agency staff concurs and is recommending this approach because it is cost-effective and allows the City and Agency access to immediate and continued revenues.

7. Report No. 8 is the use of tax increments to supplement Section 8 Moderate Rehabilitation Program and Commercial Rehabilitation Program.

   A. Section 8 Moderate Rehabilitation

      In this Federal program the owner agrees to rehabilitate his units at a minimum of $1,000 and leases it to the Agency for 15 years at up to 120% of fair market rent. The lease payments would amortize the moderate rehabilitation loan. The program was initially structured to be viable at interest rates of 12%. Local interest rates have been much higher than 12% and therefore Sacramento, as well as many other cities, has been experiencing a lack of response to this program. The Agency staff researched this problem extensively and reviewed the program with over a dozen other cities. Staff has determined that a variable interest rate loan program of $300,000 is needed to assist this program.

      Early review indicated that this program would not meet the criteria established in the Opinion of Counsel and therefore would not be eligible for tax increment funds. However, the Chief Counsel has concluded that it does meet the criteria and is eligible. However, based on the initial finding of non-eligibility and faced with a deadline of June 1982 to complete

the current allocation of units to the City or lose the units, Agency staff made a decision to request Community Development Block Grant (CDBG) funds. With the concurrence of the City CDBG coordination a staff report will be heard by the Budget and Finance Committee on January 12, 1982 recommending $300,000 from CDBG contingency for this loan program. If the need arises at some future date, tax increments can be used to supplement future allocations of Section 8 Moderate Rehabilitation funds.

B. Commercial Rehabilitation Loan Program

Section 33753.J of the Health and Safety Code has added recent amendments which would allow for the implementation of a Commercial Loan Program within Project Areas under certain conditions. "Residence" is defined as real property that includes residential structures, commercial or mixed uses of residential and commercial. Projects financed under this provision shall not exceed 80,000 square feet of gross building area per development. The loans would have to be made through a qualified mortgage lender and the square footage of the commercial structure shall not exceed 30% of the aggregate square footage of all of the commercial and residential structures within the Project Area.

This last provision would generally not allow commercial loans to be made through tax increments in the Central Business District where the majority of the square footage is commercial. It could allow loans to be made in traditional neighborhood areas.

Inasmuch as the context of the question raised by Council Members related to the possibilities of using tax increment funds for commercial loan purposes in the downtown area and the downarea's square footage exceeds the 30% aggregate figure of commercial and residential within Project Areas, we cannot find any general or specific empowerment which would allow Redevelopment Agencies to develop and implement a downtown Commercial Rehabilitation Loan Program using tax increment funds. Further, there is no evidence of any contractual obligation, the breach of which would give rise to damages or other remedies.

Since the fundings above do not satisfy both of the tests as defined by Legal Counsel and with Counsel concurrence, we conclude that the use of tax increments for the establishment and operation of a downtown Commercial Rehabilitation Loan Program is not legally permitted.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

8. Report No. 9 concerns a strategy for citizen participation for the downtown areas as it relates to the use of tax increments.

   During the formulation of the previous staff report dated August 4, 1981, presentations and discussions were held with two organizations noted below:

   A. SHRA Commission.

   B. Central City Advisory Committee.

   It should be noted that the Central City Advisory Committee is made up of 11 persons who represent a number of organizations including the Downtown Merchants Association, Chamber of Commerce, Environmental Council of Sacramento and Capitol Area Renters' Fund.

   Inasmuch as the recommendations contained in this report are essentially consistent with previous presentations and approvals received from the SHRA Commission and Central City Advisory Committee representing a broad spectrum of Central City groups, there does not seem to be a need to devise another layer of citizen participation to review this report. It is Agency staff's position that adequate review has already taken place and any other review will be redundant.

FINANCIAL DATA

See recommended financing plan.

VOTE AND RECOMMENDATION OF COMMISSION

At its regular meeting of January 18, 1982, the Sacramento Housing and Redevelopment Commission adopted a motion recommending adoption of the attached resolution. The votes were as follows:

AYES:	Coleman, Knepprath, Luevano, A. Miller, Teramoto, Walton
NOES:	None
NOT PRESENT TO VOTE:	Fisher
ABSENT:	B. Miller
VACANCY:	One

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

RECOMMENDATION

The staff recommends adoption of the attached resolution of priorities and funding plan for selected projects in the Central City.

Respectfully submitted,

William H Edgar

WILLIAM H. EDGAR
Interim Executive Director

TRANSMITTAL TO COUNCIL:

WALTER J. SLIPE
City Manager

Contact Person: Leo T. Goto

RESOLUTION NO.

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF

ADOPTION OF PRIORITIES AND FUNDING PLAN
FOR SELECTED PROJECTS IN THE CENTRAL CITY

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1. The priorities, specific projects, timetables and funding plan for tax increment moneys for the years 1982 to 1986, as recommended in the staff report dated January 4, 1982, as attached, is hereby approved.

CHAIRMAN

ATTEST:

SECRETARY

EXHIBIT I

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

September 2, 1981

TO: Budget and Finance Committee

FROM: William H. Edgar, Interim Executive Director

SUBJECT: Tax Increment Follow-Up Reports Processed to Budget and Finance Committee Meeting of Sept. 1, 1981

In accordance with the action of the Budget and Finance Committee, the staff has been requested to prepare the following reports:

1. Report Re: Transmittal of Material Received and Reviewed by the Housing and Redevelopment Commission

   This item will be prepared by Leo Goto's staff.

2. Legal Opinion Re: a) Legal and Permitted Uses for Tax Increment Funds; and b) Legal Review of the "Fazio Legislation" permitting Tax Increments for Housing Outside Project Areas

   I have asked Brent Bleier to take the lead in reviewing Dick Hyde's previous opinion regarding this matter to prepare his legal opinion of the same. This should be reviewed and concurred in by the City Attorney as they will be used by both the Agency and City staff.

3. Report Re: Evaluation of "Fazio Legislation" as it Relates to the Proposed Use of Tax Increments for Housing

   After the legal opinion has been prepared by Mr. Bleier and Mr. Jackson, Leo Goto will evaluate our housing proposals in light of that opinion.

4. Report Re: Historical Displacement of Housing Units and Payment of Relocations Costs Since the Inception of the Projects

   Leo Goto's staff will prepare this report.

5. Report Re: Use of Tax Increments for Certain Operating Expenditures Such as Street Sweeping and Police Services

   When the above mentioned legal opinion is prepared, Leo Goto's staff will review these proposed expenditures in light of that opinion.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

6. Report Re: Use of Tax Increments to Finance Proposed <u>City Capitol Improvement Projects</u>

   After the above mentioned legal opinion is prepared, I have asked Jack Crist and Bob Leland to analyze the proposed City Capitol Improvements projects in view of the legal opinion.

7. Report Re: Feasibility of Funding the Parking Structure ("U" Garage) from Operational Revenues from the Operating <u>Parking Fund</u>

   I will ask Les Frink and Jack Crist to prepare an analysis of the feasibility of this proposal.

8. Report Re: Use of Tax Increments to Supplement Section 8 Moderate Rehabilitation Program as well as Initiate a <u>Commercial Rehabilitation Program</u>

   Leo Goto's staff will prepare this report.

9. Report Re: Proposed Strategy for Citizen Participation for <u>the Downtown Area as it Relates to the Use of Tax Increments</u>

   Leo Goto's staff will prepare this report.

Since there is a considerable amount of work and analysis required to complete these reports, it is estimated that they will be ready for committee review in approximately 30 - 60 days. We will, however, work hard to complete them as soon as possible. Unless I hear to the contrary, I will assume that the above meets with your approval.

William H Edgar
WILLIAM H. EDGAR
Interim Executive Director

WHE/drn
cc: Walt Slipe
Jim Jackson
Jack Crist
Bob Smith
Brent Bleier
Leo Goto
Joan Roberts

EXHIBIT II

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

August 4, 1981

Redevelopment Agency of the
City of Sacramento
Sacramento, California

Honorable Members in Session:

SUBJECT: Recommendations of the Utilization of Tax Increment Funds in Years 1981-1985

SUMMARY

This report regards the establishment of a long-range plan to develop priorities and a policy direction for the future utilization of tax increment funds in the downtown area. The attached resolution recommends as a first priority the funding of replacement housing, subsidy for the mortgage revenue bond program, the development of a revolving loan fund for Central City site acquisition, and architectural/engineering service fees for plan approval of the Old Sacramento waterfront and professional service fees for the preparation of plans and specifications for Phase I and II in 1981. Financing of replacement housing, the revenue bond program and waterfront activities are designated as priority items in years 1982 and 1983. The completion of Phase II of the waterfront, additional replacement housing funds and a new item, innovative housing programs, are the planned work activities in 1984. Finally, the partical financing of the "U" Garage has been designated as a 1985 activity along with replacement housing.

BACKGROUND

At the request of the Budget and Finance Committee, a staff report was presented to the Planning Development/Old Sacramento Committee on May 4, 1981 concerning the possible continuation of the replacement housing program through the use of Project No. 2-A tax increment funds, an analysis of the net availability of tax increment funds projected per year in the downtown area and general information on project close-outs and uses of tax increment funding (see Attachment 1). At that meeting the PD/OS Committee requested that Legal Counsel prepare a detailed description of the legal obligations of parking commitments in the downtown area and a simplified report on the alternative scenarios for possible future tax increment projects. This additional information was prepared and presented to the PD/OS Committee at its June 4th meeting (see Attachment 2).

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency of the
City of Sacramento
August 4, 1981
Page Two

As mentioned in previous reports, there is not enough money available to fund all projects, therefore, a financing plan must be developed to provide priorities for funding based on anticipated revenues. The estimated amount of funds available for new projects and not currently committed by year are detailed in Attachment 3. A summary is presented below:

Year		Estimated Amount Available for New Projects/Year	Identity of Source
1981		$ 634,570	Parking Fund
		1,093,669	Project 2-A
		1,563,676	Central City
		790,811	Reserve
	Total	$4,082,726 (say $4.1 million)	
1982		$ 614,068	Parking Fund
		807,000	Project 2-A
		744,250	Central City
		1,807,600	Reserve
	Total	$3,972,918 (say $4 million)	
1983		$ 891,475	Parking Fund
		853,000	Project 2-A
		1,151,400	Central City
		97,600	Reserve
	Total	$2,993,475 (say $3.0 million)	
1984		$ 743,023 [1/]	Parking Fund
		4,365,742 [1/]	Project 2-A
		1,902,801 [1/]	Project 4
		1,174,428	Central City
		37,600	Reserve
	Total	$8,223,594 (say $8.2 million)	
1985		$ 817,325	Parking Fund
		1,197,917	Central City
		507,600	Reserve
	Total	$2,522,842 (say $2.5 million)	

1/ Assumed new bond issue)

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

(Note: These figures have been amended since the June 4th report. The changes are a result of two concurrences: the release of the SHRA final budget which provided more firm figures for anticipated revenues for the Agency for years 1981 and 1982 and per Bond Counsel direction, a more conservative process has been utilizated to compute estimated bond proceeds from tax increment bonds.)

Accompanying this table, three financing alternatives were presented to the PD/OS Committee to provide a framework for the establishment of project priorities for funding (see Attachment 2 for a complete breakdown of the three alternatives). Upon discussion of these alternatives, PD/OS Committee recommended the selection of Alternative No. 3 as the preferred priority and development strategy for the use of the projected tax increment funds. This alternative involves the funding of the same items enumerated in the May 4th report, i.e., waterfront, "U" Garage and housing but in a different priority ranking (i.e., begin emphasis on housing). In addition, this alternative adds two new projects, supplemental funding of the mortgage revenue bond program and the establishment of a revolving loan fund for acquisition and resale of selected structures located in Redevelopment Project Areas.

The need for these new projects became apparent recently after the May 4th report was written. They include the probable need to include local funds to assist any future mortgage revenue bond issue for low and moderate-income persons. This possibility came about because of a recent change in the Federal regulations which changes and decreases the amount of funds used to pay for administration, sales and consultants from 2.5% to 1%. Discussions with Bond Counsel and underwriters indicate it may be very difficult, if not impossible, to float any future bonds unless the local community assists in its financing. Community Development Block Grant (CDBG) funding is being researched, however, assuming a continuation of the revenue bond program is desirable, funds have been set aside in this alterative in case they are needed. An estimated $500,000 may be needed to finance and leverage a $50 million bond issue per year for a three-year time period.

The other recommended new project is the establishment of a short-term revolving loan fund to acquire selected sites that are currently in private hands for for various reasons must be purchased by the Agency and then turned over to new developers. These include Ramona, Enterprise and Traveler's Hotels as well as future new Agency-owned Redevelopment Area projects. The largest of these projects is estimated to be $1 million, which is within the projected budget. The Agency does not have funds currently available to purchase the last remaining sites to complete the Redevelopment projects. This program will fill a needed gap and be used after the Redevelopment project is closed out for other projects to be determined at that time.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

The last project was previously mentioned in the May 4th report, i.e., docks plan. It is staff's recommendation that it be carried out without public funds but that it be included as a project to be started in the near future.

In addition, due to the change in the overall amount of projected revenues as indicated above, staff has added another item (in keeping with the priority for housing) for an innovative housing program in 1984. These funds will be used to provide flexible financing approaches for the development of affordable housing programs which leverage private and public sector funds. Due to the increasing shortage of affordable housing for the low-income sector of the community and a decrease in the amount of funds available in conventional housing programs, staff must begin to take the initiative to plan and develop new strategies to meet this housing dilemma. These funds have been set aside for this purpose. Details of this program will be formulated and presented for approval in 1983.

The chart below presents the recommended financing plan for years 1981-1985:

Year	Amount Available	Action	Amount (Million)
1981	$4.1 million	a. Agency housing	$1.0
		b. Housing (revenue bond)	.5
		c. Revolving loan fund	1.0
		d. Begin docks project by private sector	No cost
		e. Waterfront plan approval and preparation of Phase I and II plans and specifications	.4
		f. Reserves	1.2
1982	$4.0 million new bonds	a. Housing (revenue bond)	.5
	+1.2 million 1981 reserves	b. Agency housing	3.0
	$5.2 million	c. Waterfront - Phase I/ Remove Wall, Stabilization of Phase II	1.6
		d. Reserves	.1
1983	$3 million new funds	a. Agency housing	1.0
	+1 million 1982 reserves	b. Housing (revenue bond)	.2
		c. Waterfront (Phase II partial)	1.8
		d. Reserves	.1

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

1984	$8.2 million + .1 million 1983 reserves $8.3 million	a. Agency housing	$3
		b. Waterfront (Phase II partial)	~~2.6~~
		c. Innovative housing program	2.7
1985	$2.6 million	a. Housing	$1.6
		b. "U" Garage	1
		(Remainder of Garage funded by lease revenue bond)	

FINANCIAL DATA

See staff-recommended financing plan.

VOTE AND RECOMMENDATION OF COMMISSION

At its regular meeting of August 3, 1981, the Sacramento Housing and Redevelopment Commission adopted a motion recommending adoption of the attached resolution. The votes were as follows:

AYES:

NOES:

ABSENT:

RECOMMENDATION

The staff recommends adoption of the attached resolution of priorities and funding plan for selected projects in the Central City.

Respectfully submitted,

William H. Edgar

WILLIAM H. EDGAR
Interim Executive Director

TRANSMITTAL TO COUNCIL:

WALTER J. SLIPE
City Manager

Contact Person: Leo T. Goto

RESOLUTION NO. _________

Adopted by the Redevelopment Agency of the City of Sacramento

ADOPTION OF PRIORITIES AND FUNDING PLAN
FOR SELECTED PROJECTS IN THE CENTAL CITY

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1. The Redevelopment Agency approves the priorities, specific projects, timetable and funding plan as recommended in the staff report dated August 4, 1981.

____
CHAIRPERSON

ATTEST:

____
SECRETARY

EXHIBIT III

OPINION OF COUNSEL

ON

CRITERIA FOR DETERMINING PERMISSIBLE EXPENDITURES OF TAX INCREMENT MONEYS

BRENTON A. BLEIER, CHIEF COUNSEL

Redevelopment Agency of the City of Sacramento
Redevelopment Agency of the County of Sacramento

December 14, 1981

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	1
CONCLUSION	1
DISCUSSION	1
INTRODUCTION	1
I. Tax Allocations and the Importance of "Indebtedness"	2
A. Tax Increments Defined	2
B. "Indebtedness" Defined	3
II. "Indebtedness"	3
A. Types of Obligations	3
B. Nature and Timing of Obligations	5
C. Qualification of Obligation	6
III. Agency Powers	7
A. Powers Prescribed	7
1. General	9
2. Specific	9
3. Ministerial	10
B. Accord with Prior Opinions	10
IV. Conclusions Herein Distinguished from Prior Memoranda	11
A. As to Section 33030 et seq.	11
B. As to Section 33125(c)	12
C. As to Section 33131(a)	13
D. As to In Re Bunker Hill	13
E. As to Section 33659(c)	14
SUMMARY AND CONCLUSION	16

TABLE OF CONTENTS (Cont'd)

Page

EXHIBITS:

"A" Attorney Hyde's Memorandum to then-Councilman Isenberg dated July 26, 1974 17

"B" Attorney Beattie's Memorandum to Councilman Connelly dated March 11, 1977 19

"C" Attorney Hyde's Memorandum to Mayor Isenberg dated November 22, 1977 26

"D" Attorney Hyde's Memorandum to City Manager Mailes dated February 22, 1978 28

"E" Summary of Articles and Chapters within the Community Redevelopment Law 46

"F" Powers and Prohibitions of Redevelopment Agency 49

TO: Redevelopment Agency of the City of Sacramento
Redevelopment Agency of the County of Sacramento

FROM: Brenton A. Bleier, Chief Counsel

SUBJECT: Criteria for Determining Permissible Expenditures of Tax Increment Moneys

QUESTION PRESENTED

What are the appropriate criteria for determining permissible expenditures of tax increment moneys allocated to the Redevelopment Agency pursuant to Health and Safety Code Section 33670?

CONCLUSION

The appropriate criteria for the determination of whether a given expenditure is a permissible use of tax increment funds are as follows:

1. The expenditure must be in repayment of an "indebtedness" which is (a) for redevelopment activity as defined in Section 33678(b) and (b) is a contractual obligation which, if breached, would subject the Agency to damages or other liabilities or remedies; and

2. The expenditure (a) shall be made pursuant to a general or specific grant of substantive or programmatic power and shall be capable of implementation under the grant of administrative or ministerial power, and (b) shall not have been specifically prohibited by the Agency. (See Exhibit "F").

Any proposed expenditure failing to meet both of the above criteria shall be an impermissible expenditure of tax increment funds.

DISCUSSION

INTRODUCTION

Various aspects of the question presented herein have been considered by previous counsel for the Agency. The responses put forth by counsel have been, for the most part, directed to specific issues and have been somewhat contradictory. In the course of the preparation of this opinion, due weight and consideration has been given to Attorney Hyde's memorandum to then Councilman Isenberg dated July 26, 1974 (Exhibit "A"), Attorney Beattie's memorandum to Councilman Connelly dated March 11, 1977 (Exhibit "B"), Attorney Hyde's memorandum to Mayor Isenberg dated November 22, 1977 (Exhibit "C"), and Attorney Hyde's memorandum to Assistant City Manager Mailes

dated February 22, 1978 (Exhibit "D"). For the reasons discussed below, the conclusions reached herein comport with some but not all of the conclusions contained in the earlier memoranda. It has been found that some of the earlier conclusions require modification and clarification.

In this memorandum, two major areas will be discussed as necessary to a resolution of the question presented:

1. The meaning of the term "indebtedness" as that term is used within the Community Redevelopment Law; and

2. The scope of the powers of a redevelopment agency under that law.

Within each of these areas, the conclusions herein will be compared and contrasted with the conclusions of the earlier memoranda. This comparison has been undertaken to establish the vitality of the conclusions currently presented and to resolve contradictions with earlier views.

All references to section numbers in the text of this opinion are to the California Health and Safety Code unless otherwise specified.

I. TAX ALLOCATIONS AND THE IMPORTANCE OF "INDEBTEDNESS"

A. Tax Increments Defined

Tax increment payments, as that term is used herein, refers to those tax moneys which are allocated to a redevelopment agency pursuant to Section 33670. In essence, the statutory scheme allocates to the redevelopment agency those tax moneys which would otherwise have been received by the usual taxing agencies as a result of the increased valuation occurring within an area defined by a redevelopment plan when compared to a base year prior to the inception of redevelopment in that area.

Relatively little statutory guidance has been given as to the scope of appropriate expenditures of these tax increment moneys beyond the language contained in Section 33670(b), which provides that:

> "(b) That portion of the levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by such redevelopment agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable

property in such project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When such loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid."

The foregoing language presumes a financial mechanism whereby funds will have been advanced by another entity to accomplish the work of redevelopment and are to be repaid from tax increment payments. However, with the maturation of earlier projects and the establishment of subsequent projects for which such a mechanism was not available, questions have arisen as to the degree to which an agency may make direct expenditures of tax increment moneys outside such a mechanism.

B. "Indebtedness" Defined

At the time of the earlier memoranda opinions, little guidance was available as to the appropriate interpretation of the term "indebtedness". However, with the addition of Chapter 9 (Section 33800 et seq.) to the Community Redevelopment Law in 1979 and the addition of Section 33678 in 1980, the Legislature has offered substantial evidence as to the meaning of the term. In construing the earlier statute in light of the subsequent legislative definition, this opinion follows the well-settled rule that a legislative body has the power within reasonable limitations to prescribe legal definitions of its own language which will generally be binding upon the Courts. (cf. Great Lakes Properties, Inc. v. City of El Segundo (1977) 19 C 3d 152, 156, 137 Cal Rptr 154).

II. "INDEBTEDNESS"

A. Types of Obligations

Chapter 9 of the Community Redevelopment Law as adopted in 1979 established a procedure for the establishment of special assessment areas within redevelopment project areas for the purpose of providing supplemental sources of revenue for the payment of "indebtedness" which had been incurred prior to July 1, 1978 and which was "...dependent upon taxes allocated pursuant to...subdivision (b) of Section 33670 for its security...". (Section 33810 and Sections 33810-33817, inclusive).

As part of this special assessment scheme, the Legislature found it

necessary to define the meaning of the term "indebtedness" in Section 33801, as follows:

> "§ 33801.
> 'Indebtedness' means any obligation incurred by a redevelopment agency prior to July 1, 1978, the payment of which is to be made in whole or in part out of taxes allocated to the agency pursuant to Section 33670 and includes:
> (a) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency (whether funded, refunded, assumed, or otherwise) pursuant to Article 5 (commencing with Section 33640) of Chapter 6 of this part.
> (b) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state or local agencies.
> (c) A contractual obligation which, if breached, could subject the agency to damages or other liabilities or remedies.
> (d) An obligation incurred pursuant to Section 33445.
> (e) Indebtedness incurred pursuant to Section 33334.2.
> (f) Obligations imposed by law with respect to activities which occurred prior to July 1, 1978."

It should be noted at the outset that Section 33800 provides that:

> "The definitions contained in this article govern the construction of this chapter, unless the context requires otherwise."

Thus, while the definition of Section 33801 of "indebtedness" is expressly designed to govern the construction of Chapter 9, there is no evidence that the Legislature intended to define the term "indebtedness" in any other way for purposes of the other chapters of the Community Redevelopment Law. While code definitions often apply specifically to the respective codes or segments in which they are found, such definitions are of significance in the construction of other statutes. Thus a code definition, though appearing in a part and chapter relating to a particular subject, may be of general application, unless the context indicates otherwise. (Re Estate of Kohler (1889) 29 C.313, 21 P. 758).

Applying therefore the definition of Section 33801 to "indebtedness" as used in Section 33670, it can be seen that the term includes more than the financing mechanism most clearly portrayed and discussed above. Specifically, and most significantly, the Legislature has included as a form of "indebtedness", "...a contractual obligation which, if breached, could subject the agency to damages or other liabilities or remedies...". (Section 33801(c)). This specification is intriguing for what it excludes as much as what it includes. Specifically, such a definition excludes contractual obligations which would not subject the Agency to damages or other liabilities or remedies.

The measure of damages for a breach of contract is the amount that will compensate the party aggrieved for all the detriment proximately caused to him by the breach or which, in the ordinary course of things, will be likely to result therefrom. (Wickman v. Opper (1961) 188 CA 2d 129, 10 Cal Rptr 291). However, in those instances in which the evidence reveals a breach of duty owed to a party without showing at the same time any material injury was sustained, only "nominal damages" can be awarded. "Nominal damages" involve a trivial sum and are in reality no damages at all. (Price v. McCormich (1937) 22 CA 2d 92, 70 P 2d 978). Thus, a contractual obligation which subjected the Agency to only nominal damages or no damages at all would not be considered to be indebtedness as that term is used in Section 33670.

B. Nature and Timing of Obligations

In his February, 1978 opinion (Exhibit "D"), Mr. Hyde argued that the term "indebtedness" included not only "existing obligations", including both conditional and unconditional obligations, but "anticipated obligations" which exist "...where the Agency intends to take a certain action at some time in the future but has no existing obligation to take this action " (at page 8). Mr. Hyde noted that the enactment of certain unspecified sections of the Community Redevelopment Law "...appear(ed) to contemplate that tax increment funds are not payable on account of anticipated obligations" (at page 8). However, Mr. Hyde was relatively unconcerned with the prospect of the use of such funds for such purposes, even assuming the sections he had in mind were constitutional (which he doubted), in that

> "...it is unlikely that the Agency will have an anticipated obligation which is not readily converted into an existing obligation by way of an agreement between the Agency and the City. So long as the Agency can legally perform an activity, it can enter into an agreement with the City by which the Agency is obligated to perform this activity (Section 33220(e))" (at page 8).

In view of the Legislature's subsequent enactments, Attorney Hyde's conclusion in this regard may be somewhat overbroad. It would appear that the legislative language including within the purview of "indebtedness" only those contracts which "...if breached, could subject the agency to damages or other liabilities or remedies", would require more than the mere formality of a contract.

Accordingly, a Court might well look beyond a "contract" where the arrangement was authorized and directed by an identically composed governing board on behalf of both entities, and find that the formality of a contract was a mere artifice or device designed solely to capture and retain the tax increment moneys from the appropriate taxing authorities. (cf. Yosemite Portland Cement Corp. v. State Board of Equalization (1943) 59 CA 2d 39, 138 P2d 39). Such contracts of convenience would preclude the imposition of "damages or other liabilities or remedies".

Inasmuch as the Agency is not a natural person, all expenditures will be accomplished through the instrumentality of another on an explicitly or implicitly contractual basis. It could be argued that the breach of any of these contracts to purchase goods or services (including employee services) could give rise to damages or other remedies if breached and thus satisfy the "indebtedness" requirement. Such an argument would allow any expenditure to be construed as a payment upon "indebtedness". It would be difficult to envision a reason for the insertion of the "indebtedness" requirement by the Legislature if such a construction were intended.

Further, such an approach overlooks the last sentence of Section 33670(b) which provides that

> "...when such loans, advances, and indebtedness, if any, and interest thereon, have been paid all moneys thereafter received from the taxes upon the taxable property in such redevelopment projects shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid."

Thus, tax increment moneys are not to be allocated unless "indebtedness" exists at the time of allocation. A logical extension would suggest that tax increment moneys would be expended in repayment of the obligations which triggered their allocation.

Accordingly, the "indebtedness" test of a tax increment expenditure should not be found to have been satisfied unless the contractual obligation existed at the time the tax increments to be expended were allocated.

C. Qualification of Obligation

In 1980, the Legislature enacted Section 33678 to "...implement and fulfill the intent of this Article and of Article XIII B and Section 16 of Article XVI of the California Constitution...". Section 33678 is contained within the same Article (Article 6 of Chapter 6) as Section 33670 containing the term "indebtedness".

Section 33678 provides in its entirety as follows:

> "§ 33678.
> (a) This section implements and fulfills the intent of this article and of Article XIII B and Section 16 of Article XVI of the California Constitution. The allocation and payment to an agency of the portion of taxes specified in subdivision (b) of Section 33670 for the purpose of paying principal of, or interest on, loans, advances, or indebtedness incurred for redevelopment activity, as defined in subdivision (b) of this section, shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning or for the purposes of Article XIII B of the California Constitution, nor shall

such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B of the California Constitution or any statutory provision enacted in implementation of Article XIII B. The allocation and payment to an agency of such portion of taxes shall not be deemed the appropriation by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning or for purposes of Article XIII B of the California Constitution.

(v) As used in this section, 'redevelopment activity' means redevelopment meeting all of the following criteria:

(1) Is redevelopment as prescribed in Section 33020 and 33021.

(2) Primarily benefits the project area.

(3) None of the funds are used for the purpose of paying for employee or contractual services of any local governmental agency unless such services are directly related to the purpose of Sections 33020 and 33021 and the powers established in this part.

Should any law hereafter enacted, without a vote of the electorate, confer taxing power upon an agency, the exercise of such power by the agency in any fiscal year shall be deemed a transfer of financial responsibility from the community to the agency for such fiscal year within the meaning of subdivision (a) of Section 3 of Article XIII B of the California Constitution." [emphasis added].

We see therefore that the Legislature sought to restrict "indebtedness" to specific activities which it defined in subsection (b). In essence, in order to meet the criteria of subsection (b), an activity must: (1) fall within the purposes and powers described in Sections 33020 and 33021; (2) primarily benefit the project area; and (3) not utilize the contractual services of any local government agency unless directly related to the powers and purposes of Sections 33020 and 33021.

It is difficult to envision a reason for the insertion of the third criteria by the Legislature in subsection (b) unless it were designed to prevent the types of contracts of convenience envisioned by Mr. Hyde in his February, 1978 opinion.

III. AGENCY POWERS

A. Powers Prescribed

Section 33122 provides as follows:

"Each redevelopment agency exercises governmental functions and has the powers prescribed in this part."

It should be noted at the outset that a redevelopment agency has only "prescribed" powers and one must look for specific delegations of power by the Legislature to a redevelopment agency. Unfortunately, this investigation is not nearly so straightforward as such a statement might imply.

Attached hereto as Exhibit "E" is a summary of the various Articles and Chapters within the Community Redevelopment Law. Because words and phrases within statutes are to be construed according to their context (California Civil Code § 13), such an outline can provide a proper context for the various sections and articles which will be cited.

Section 1858 of the California Code of Civil Procedure provides as follows:

> "In the construction of a statute or instrument, the office of the judge is simply to ascertain and declare what is in terms or substance contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars, <u>such a construction is</u>, if possible, <u>to be adopted as will give effect to all</u>." [emphasis added.]

And further, Section 1859 of the Code of Civil Procedure provides as follows:

> "In the construction of a statute, the intention of the Legislature, and in the construction of the instrument the intention of the parties, is to be pursued, if possible; and when a general and (a) particular provision are inconsistent, the latter is paramount to the former. So <u>a particular intent will control a general one that is inconsistent</u> with it." [emphasis added.]

Thus, in reviewing the particular powers which are discussed by the Community Redevelopment Law below, this opinion attempts to allow the particular to control the general and yet give effect to all.

The Community Redevelopment Law delineates two types of prescribed or enumerated powers:

(1) Substantive or programmatic powers of either a general or specific nature; and

(2) Administrative or ministerial powers which are generally necessary to accomplish a substantive or programmatic end.

In a sense, the substantive or programmatic powers may be thought of as purposes.

1. General

The general substantive or programmatic powers of a redevelopment agency are set forth in Sections 33020 and 33021 as follows:

"§ 33020.

'Redevelopment' means the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and the provision of such residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them." [emphasis added.]

"§ 33021.

Redevelopment includes:

(a) The alteration, improvement, modernization, reconstruction, or rehabilitation, or any combination of these, of existing structures in a project area.

(b) Provision for open-space types of use, such as streets and other public grounds and space around buildings, and public or private buildings, structures and improvements, and improvements of public or private recreation areas and other public grounds.

(c) The replanning or redesign of original development of undeveloped areas as to which either of the following conditions exist.

(1) The areas are stagnant or improperly utilized because of defective or inadequate street layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes.

(2) The areas require replanning and land assembly for reclamation or development in the interest of the general welfare because of widely scattered ownership, tax delinquency, or other reasons.

(3) The areas require land assembly for the purpose of the development of a 'new community' within the meaning of the Federal New Communities Act of 1968." [emphasis added.]

2. Specific

A redevelopment agency is also granted additional specific substantive or programmatic powers, some of which are made mandatory

upon the agency, which may go beyond those general enumerated powers set forth above.[1] Specific powers, such as those granted in Article 9 of Chapter 4 relating to the relocation of persons displaced by redevelopment projects, exemplify this type of specific grant of substantive or programmatic power.

3. Ministerial

Additionally, the Community Redevelopment Law is replete with grants of administrative or ministerial powers which may be necessary to accomplish the purposes of the substantive powers set forth above. For example, Article 3 of Chapter 2 provides the agency with general powers to make contracts, hire employees, rent office space, pay travel expenses of members and employees, and prepare applications for various Federal programs and grants. Chapter 5 grants the agency power to maintain legal actions and Chapter 6 grants the necessary powers to issue bonds and collect income from taxation.

Finally, all of the aforementioned grants of power, both substantial and ministerial, are subject to certain specific prohibitions or requirements. A representative, not not necessarily exhaustive tabulation and categorization of the various types of powers discussed herein are set forth in Exhibit "F" hereto.

It is neither reasonably feasible nor possible to anticipate in a single memorandum all possible proposals as to expenditures of tax increment funds and evaluate them. Rather, the task of this memorandum is to set forth principles and guidelines which will aid in such a determination on a case by case basis.

B. Accord with Prior Opinions

It is important to lift out and carry forward those portions of the earlier opinions of counsel which comport with the principles outlined herein. In his February, 1978 memorandum (Exhibit "D"), Mr. Hyde

---

1/ In addition to the powers discussed herein, in Article 13 of Chapter 4 (Section 33460 et seq.), the Community Redevelopment Law provides special purpose legislation applicable only to the City of Sacramento which allows the merger of existing Redevelopment Project Areas in order to allow the expenditure of tax increment funds from one Project Area in the areas included within another Project Area. In addition to these authorizations, Article 13 requires additional specific percentages of such funds to be spent for moderate, low and very low income housing. Until such time as two or more redevelopment plans within the City of Sacramento are amended so as to bring about a merger as envisioned by Article 13, it will be of no effect. Even if such a merger were to occur, however, the net effect would be more restrictive uses of the tax increment funds than those envisioned and explained herein.

incorporated by reference his July, 1974 memorandum (Exhibit "A") in which he referred to the language of Section 33020 as a "general rule" and a "general limitation". Mr. Hyde then listed eight examples of powers which he said were "subject to this general limitation". The powers which he listed at page 1 of the July, 1974 memorandum (Exhibit "A") are generally those which are herein termed administrative or ministerial powers. Then in his November, 1977 memorandum (Exhibit "C"), Mr. Hyde deals with additional grants of specific programmatic power in Sections 33413 and 33334.2. Mr. Hyde's conclusions in the aforementioned memoranda in this regard cannot be faulted.

However, both Mr. Beattie in his memorandum of March, 1977 (Exhibit "B") and Mr. Hyde in his memorandum of February, 1978 (Exhibit "D") attempt to go beyond the enumerated general and specific substantive or programmatic powers discussed above and find additional authorization for Agency activities and tax increment expenditures beyond those previously discussed. Because their conclusions in both instances go beyond the criteria which this opinion finds to be permissible and appropriate for the expenditure of tax increment funds, it is necessary to deal at length with the arguments they raise.

IV. CONCLUSIONS HEREIN DISTINGUISHED FROM PRIOR MEMORANDA

A. As to Section 33030 et seq.

In his memorandum of March, 1977 (Exhibit "B"), Mr. Beattie declared that the Community Redevelopment Law was "...unclear with respect to expenditure of tax increment funds to carry out social programs such as law enforcement for the reduction of crime in a project area" (at page 1). Nonetheless, Mr. Beattie sought to find authorization for such programs in Sections 33030, 33035, 33037 and 33039 of the Community Redevelopment Law. Unfortunately, the cited sections are all taken from Article 3 of Chapter 1 comprising declarations of State policy relating to blighted areas. While declaratory statements of policy found in sections such as those cited by Mr. Beattie may be useful in construing ambiguities in enumerated powers, we cannot look to declaratory sections for a delegation of power in themselves. The Legislature could have, had it wished to do so, enacted a provision granting to a redevelopment agency such powers as were necessary to accomplish the goals of policy set forth in these sections. Such an enactment would have granted validity to Mr. Beattie's approach. However, the Legislature did not do so.

There is little doubt that there are no empowerments within the Community Redevelopment Law which would allow for the expenditure of funds for such purposes. In fact, after reciting the aforementioned declarations of State policy, Mr. Beattie noted that "...there are no additional (sic)

provisions within the Community Redevelopment Law that clearly provide for the expenditure of project funds for such a program..." (at page 5). Inasmuch as the declaratory sections previously cited cannot "provide" for such expenditures, no such authorization exists and Mr. Beattie's conclusions fall.

B. As to Section 33125(c)

Using a more sophisticated argument in his February, 1979 memorandum (Exhibit "D"), Mr. Hyde asserted that:

> "The law grants broad powers to the Agency to 'plan and carry out (undertake) plans for the redevelopment of blighted areas.' (Section 33131(a)), and to 'enter into contracts both necessary and convenient for the carrying out of such plans' (Section 33125(c)). So long as the activity is 'necessary or convenient' for the carrying out of a redevelopment plan the relationship required by this fifth element is satisfied. The Agency determines whether a particular activity is necessary or convenient for the carrying out of a redevelopment plan. All such activities need not be specified in a redevelopment plan and so long as the Agency's determination in this regard is reasonable, it will not be reversed by the Courts. (In Re Urban Renewal Project 1B (1964) 61 Cal 2d 221)." (at page 13).

Starting from the two cited sections, Mr. Hyde constructs an argument for a broad expansion of Agency powers beyond the enumerated powers discussed above. Mr. Hyde concluded that the two sections he cited, taken together, allow the Agency to do whatever is "...'necessary or convenient' for the carrying out of (such) redevelopment plan(s)..." (at page 13).

Unfortunately, apparently through clerical error, Section 33125(c) is misquoted. In fact, Section 33125 provides only as follows:

> "§ 33125.
>
> An agency may:
> (a) Sue and be sued.
> (b) Have a seal.
> (c) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
> (d) Make, amend, and repeal bylaws and regulations not inconsistent with, and to carry into effect, the powers and purposes of this part." [emphasis added.]

Thus, far from being an authorization to do whatever is necessary or convenient to carry out a plan (thereby arguably constituting a general grant of substantive or programmatic power), the cited subsection merely provides that the Agency may contract to carry out its powers as they may

be enumerated in other places. In the context of the entire section, subsection (c) amounts only to a delegation of administrative or ministerial power necessary to accomplish such substantive powers as may be enumerated and delegated elsewhere.

C. As to Section 33131(a)

Section 33131(a), also cited by Mr. Hyde as a "...grant (of) broad powers...", must also be evaluated in light of its context. Section 33131 provides in its entirety as follows:

> "§ 33131.
>
> An agency may:
> (a) From time to time prepare and carry out plans for the improvement, rehabilitation, and redevelopment of blighted areas.
> (b) Disseminate redevelopment information.
> (c) Prepare applications for various federal programs and grants relating to housing and community development and plan and carry out such programs within authority otherwise granted by this part, at the request of the legislative body."

The focus of this Section is clearly the preparation of plans and the dissemination of information. Further, the section is located in the midst of a number of other sections in Article 3 of Chapter 2 granting administrative or ministerial powers. Accordingly, this opinion concludes that Section 33131(a) should not be interpreted as a major grant of additional substantive or programmatic powers.

Such a conclusion is buttressed by the fact that it would be difficult to give effect to the provisions of subsection (c) if Mr. Hyde's interpretation were given effect. Subsection (c) provides the Agency only with authority to prepare applications for various federal programs and to carry out such programs "...within authority otherwise granted by (the Community Redevelopment Law)...". Inasmuch as such federal programs impliedly would relate to blighted areas and the redevelopment thereof, the express restriction of authority in subsection (c) would be rendered incomprehensible by the purported general grant of broad authority in subsection (a) to "...carry out the plan...". Accordingly, it is concluded that Section 33131 in its entirety, including subsection (a), must be read as a grant of ministerial or administrative authority only and not a grant of the type of sweeping general authority which Mr. Hyde sought.

D. As to In Re Bunker Hill

Finally, in this regard, Mr. Hyde cites the case of In Re Bunker Hill Urban Renewal Project 1B (1964) 61 Cal 2d 21, 399 P 2d 538, for the proposition that such "necessary and convenient" activities need not be

specified in the plan and that so long as the Agency's determination of their necessity and convenience was reasonable "...it (would) not be reversed by the Courts" (Exhibit "D" at page 13). In Re Bunker Hill arose on an appeal from a special proceeding to determine the validity of the findings of blight made in connection with the adoption of a redevelopment plan. The Court held, inter alia, that the language of Section 33746 pertaining to validation proceedings implied that the Court would not "...exercise an independent judgment on the evidence, but...limit its review to determining whether there was substantial evidence before the board to support the latter's decision" (37 Cal Rptr at page 86). However, it is important to note that the Court was here determining the standard for judicial review of the factual findings and determinations necessary to the enactment of a redevelopment plan; the Court was not considering the validity of an agency's determination on its own powers under such a plan. Thus the holding of In Re Bunker Hill does not support Mr. Hyde's conclusion.

E. As to Section 33659(c)

At page 15 of his memorandum of February, 1978 (Exhibit "D"), Mr. Hyde returns to what he sees as "...general authorizations". He states:

> "The Community Redevelopment Law authorizes the Agency to perform specific activities listed above under the discussion of permitted uses of tax increment funds. In addition, this law contains the following general authorizations with respect to the undertaking of redevelopment projects:
>
> 1. Prepare and carry out plans for the improvement, rehabilitation and redevelopment of blighted areas (Section 33131(a)).
>
> 2. Do any and all acts and things as may be necessary, convenient or desirable except as otherwise provided in the Community Redevelopment Law which acts or things will tend to make bonds of the Agency more marketable notwithstanding the fact that such acts or things may not be enumerated in the Community Redevelopment Law. (Section 33659(c))."

Mr. Hyde's argument related to Section 33131(a) is discussed in paragraph C above. However, Mr. Hyde in the course of his arguments based upon Section 33131(a) notes cogently that

> "It is unreasonable to conclude that the Legislature would extensively regulate the use of tax increment funds for redevelopment activities while permitting the unregulated use of these funds for social programs." (at page 16).

Such an argument from prescribed specificity applies not only to his

finding of a lack of authorization for social programs but also to his treatment of Section 33659(c) which follows.

Section 33659 is located in Article 5 of Chapter 6 of the Community Redevelopment Law. Chapter 6 deals with financial provisions in general and Article 5 of that Chapter deals entirely with agency bonds. In that context, Section 33659 provides in its entirety as follows:

> "§ 33659.
>
> An agency may:
> (a) Exercise all or any part or combination of the powers granted in Sections 33651 to 33658 inclusive.
> (b) Make covenants other than and in addition to the covenants expressly authorized in such sections of like or different character.
> (c) Make such covenants and to do any and all such acts and things as may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this part, as will tend to make the bonds more marketable nothwithstanding that such covenants, acts, or things may not be enumerated in this part."
> [emphasis added.]

Based upon subsection (c) of this Section, Mr. Hyde concludes that it authorizes the Agency to "...undertake any activity, including social programs" (Exhibit "D" at page 17) if (1) the Agency can "determine that the activity will significantly enhance the marketability of its bonds"; (2) the Agency can "anticipate the issuance of bonds in the near future"; (3) the activity is limited to that "necessary to enhance the marketability" of its bonds (Exhibit "D" at page 17). However, in paraphrasing subsection (c) of Section 33659 for his memorandum, Mr. Hyde inadvertently deleted the words "such covenants" from the first and last clause of the sentence. This opinion finds that omission to be critical to a proper analysis of the subsection.

The doctrine of noscitur a sociis is a rule of construction providing that where the meaning of any particular word of a statute is doubtful when taken by itself, the doubt may be removed and the true meaning ascertained by reference to the meaning of its associated words. In essence, the doctrine means that general and specific words are associated with and take color from each other, restricting general words to a sense analogous to the less general. (cf. Code of Civil Procedure Section 1859 and Section III B, supra.) In the instant case, the validity of Mr. Hyde's interpretation turns on the intended scope of the general words "acts" and "things". It is hard to imagine two words with a more uncertain or indefinite scope.

However, under the rule of noscitur a sociis, the meaning of a word may be enlarged or restrained by reference to its companions and to the object of the whole clause in which it is used. (58 Cal Jur 3d,

Statutes, § 131 and People v. Stout (1971) 18 Cal App 3d 172, 95 Cal Rptr 593). When the indefinite and uncertain words ("acts" and "things") are viewed in light of the more specific companion word ("covenants"), Mr. Hyde's expansionary argument begins to falter. Under *noscitur a sociis*, the necessary and convenient "acts and things" are seen to be of a nature similar to "covenants".

Further, the adjective "such" preceding the words "covenants", "acts" and "things" shows the object of the clause in which they are used is subsection (b) and, in turn, subsection (a) of Section 33659. Subsection (a) focuses clearly upon Sections 33651 to 33658 inclusive which deal with ministerial acts relating to the issuance of bonds. Thus, the phrase "...such acts and things...", as cited by Mr. Hyde, actually makes reference only to ministerial acts relating to the issuance of bonds and should not be construed as a grant of substantive or programmatic authority.

Finally, it is unreasonable to believe, to paraphrase Mr. Hyde's earlier argument related to Section 33131, that the Legislature would have so closely regulated redevelopment activities with other sections of the Act if it intended in one broad stroke of an obscure section to grant to local agencies a final determination of the scope of their own programmatic authority.

Accordingly, it is concluded that there is no grant of additional programmatic or substantive authority beyond the enumerated powers to be found either in the declarations of State policy as seen by Mr. Beattie or in the various expansionary subsections seen by Mr. Hyde.

SUMMARY AND CONCLUSION

In accordance with the views outlined above, the appropriate criteria for the determination of whether a given expenditure is a permissible use of tax increment funds are as follows:

1. The expenditure must be in repayment of an "indebtedness" which is (a) for redevelopment activity as defined in Section 33678(b) *and* (b) is a contractual obligation which, if breached, could subject the Agency to damages or other liabilities or remedies; *and*

2. The expenditure (a) shall be made pursuant to a general or specific grant of substantive or programmatic power and shall be capable of implementation under a grant of administrative or ministerial power, and (b) shall not have been specifically prohibited by the Agency. (See Exhibit "F").

Any proposed expenditure failing to meet *both* of the above criteria shall be an impermissible expenditure of tax increment funds.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

EXHIBIT "A"

M E M O R A N D U M

7/26/74

TO: Phillip L. Isenberg, City Councilman

FROM: Richard H. Hyde, Agency Attorney

SUBJECT: Legal Restrictions Relating to the Use of Funds of the Redevelopment Agency of the City of Sacramento

As a general rule, redevelopment funds may only be used to accomplish the purposes of redevelopment which are defined as "the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation of all or part of a redevelopment project area." Subject to this general limitation, the Agency has authority to expend funds for the following purposes:

1. Purchase or lease real or personal property.
2. Rent, maintain, manage, operate, repair and clear real property owned by the Agency for the purposes of redevelopment.
3. Develop, rehabilitate or construct housing units within the City to the extent insufficient suitable housing units are available in the City for use by persons or families of low and moderate income displaced by the redevelopment project.
4. Develop building sites.
5. Install or construct streets, utilities, parks, playgrounds and other public improvements necessary for carrying out the redevelopment plan.
6. Sell, lease or donate real property to a housing authority or other public body for public housing projects.
7. Pay all or part of the value of land for and the cost of construction of any building or other improvement which is publicly owned either within or without a project area upon a determination that the building or improvement will benefit the project area.
8. Hire staff; provide funds to a project area committee; make in lieu tax payments to any taxing agency regarding property owned by the Agency; and purchase insurance.

In addition, the following restrictions apply to funds from certain sources.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

7/26/74

TAX INCREMENTS:

Provisions relating to tax increments provide that these funds are to be used only for the purposes of redevelopment of the project area within which they are generated. However, this limitation does not preclude the expenditure of these funds outside of the project area where the expenditure is for a purpose which benefits the project area.

FEDERAL LOAN & GRANT FUNDS:

Federal funds are governed by the provisions of the Loan and Grant Contract entered into between the Federal Government and the Agency. Each of these contracts applies to a particular project area and provides for the expenditure of funds only for certain purposes to the extent the expenditure benefits the project area. In the event the expenditure benefits both a project area and an adjacent area, federal regulations provide that the expenditures may be made only to the extent of the prorata benefit to the particular project area. At the time the contract is executed, a budget is approved by HUD. This budget sets forth the specific purpose for which the funds are to be used, and can only be modified with the approval of the Federal Government.

RICHARD H. HYDE
Agency Attorney

bcc: ED
DD
Con

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

March 11, 1977 **EXHIBIT "B"**

TO: Lloyd G. Connelly, Councilman
City of Sacramento

FROM: George B. Beattie, Agency Attorney

SUBJECT: Use of Allocations of Tax Increments for Financing the Services of Private or Public Agency for Protection of City's or Agency's Properties in Redevelopment Project Areas.

QUESTION

May special funds of a redevelopment agency containing allocations from tax increments be used to finance a program to provide protective services from a public or private agency to preserve Agency's or City's properties and/or investments in redevelopment project areas?

CONCLUSION

It is our conclusion that the Community Redevelopment Law is unclear with respect to expenditure of tax increment funds to carry out social programs such as law enforcement for the reduction of crime in a project area. However, State policy seems to include the removal or reduction of such social problems as within the purview of the redevelopment process. It is our view that such expenditures would stand the best chance of being upheld in a court of law if they were made within strict limitations. We suggest the following limitations: (1) the duration of the special program to be set to reflect the temporary addition of services, i.e., one or two years with a regular review; (2) the thrust of the program be directed toward the elimination of a specific blighting problem, i.e., vandalism, theft, burglary; (3) that the services rendered be of an extraordinary nature, above and beyond similar services provided generally throughout the community; and (4) the services should directly benefit in a tangible way the project area from which the tax increments are derived.

ANALYSIS

Statement of Facts

In 1951 the City of Sacramento began the process of rebuilding the Central City area of Sacramento which included residential, commercial and industrial uses. This area included what was then recognized as one of the worst slums on the West Coast. Through the Community Redevelopment process the slums have been replaced with commercial and residential buildings in four redevelopment project areas.

Three of these project areas are redeveloped by the Redevelopment Agency and one by the City itself through a delegation of Agency powers. In the central commercial areas major private and public investments have been made. Certain social problems continue to persist in this area which have a blighting effect on the project areas. Among these is the threat to public and private property caused by criminal elements of the community. The City proposes to establish a special law enforcement program for a period of a year. The clear and express intent of the program is the preserving of the City's investments in Redevelopment Project Areas Nos. 2-A, 3 and 4 and the City's East Mall Project. The City proposes to pay for this program with tax increment funds from the various project areas.

Issues

The Community Redevelopment Law, Part I (Section 33000-33738) of Division 24 of the Health and Safety Code provides for the creation of redevelopment agencies and provides for the powers and functions of such agencies in carrying out State policy with regard to community redevelopment.

State Policy

Section 33030 declares as State policy that "[i]t is found and declared that there exists in many communities blighted areas which constitute either physical, social, or economic liabilities requiring redevelopment in the interest of the health, safety and general welfare of the people of such communities and of the State."

"A blighted area is one which is characterized by one or more of the conditions set forth in Sections 33031 or 33032, causing a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social, or economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone." [emphasis added]

The Central City area which is now covered by the four projects indicated above, met the requirements of blight as set forth in Section 33031, as follows:

> "A blighted area is characterized by the existence of buildings and structures, used or intended to be used for living, commercial, industrial, or other purposes or any combination of such uses, which are unfit or unsafe to occupy for such purposes and are conducive to

ill health, transmission of disease, infant mortality, juvenile delinquency, and crime because of any one or a combination of the following factors:

(a) Defective design and character of physical construction.

(b) Faulty interior arrangement and exterior spacing.

(c) High density of population and overcrowding.

(d) Inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities.

(e) Age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses."
[emphasis added]

The project areas have been substantially redeveloped but certain blighting influences still persist. The State policy with respect to these influences are spoken to in Section 33035, as follows:

"It is further found and declared that:

(a) The existence of blighted areas characterized by any or all of such conditions constitutes a serious and growing menace which is condemned as injurious and inimical to the public health, safety, and welfare of the people of the communities in which they exist and of the people of the State.

(b) Such blighted areas present difficulties and handicaps which are beyond remedy and control solely by regulatory processes in the exercise of police power.

(c) They contribute substantially and increasingly to the problems of, and necessitate excessive and disproportionate expenditures for, crime prevention, correction, prosecution, and punishment, the treatment of juvenile delinquency, the preservation of the public health and safety, and the maintaining of adequate police, fire and accident protection and other public services and facilities.

(d) This menace is becoming increasingly direct and

substantial in its significance and effect.

(e) The benefits which will result from the remedying of such conditions and the redevelopment of blighted areas will accrue to all the inhabitants and property owners of the communities in which they exist."
[emphasis added]

Further, State policy is declared in Section 33037 with respect to expenditure of public funds, as follows:

"For these reasons it is declared to be the policy of the State:

(a) To protect and promote the sound development and redevelopment of blighted areas and the general welfare of the inhabitants of the communities in which they exist by remedying such injurious conditions through the employment of all appropriate means.

(b) That whenever the redevelopment of blighted areas cannot be accomplished by private enterprise alone, without public participation and assistance in the acquisition of land, in planning and in the financing of land assembly, in the work of clearance, and in the making of improvements necessary therefor, it is in the public interest to employ the power of eminent domain, to advance or expend public funds for these purposes, and to provide a means by which blighted areas may be redeveloped or rehabilitated.

(c) That the redevelopment of blighted areas and the provisions for appropriate continuing land use and construction policies in them constitute public uses and purposes for which public money may be advanced or expended and private property acquired, and are governmental functions of state concern in the interest of health, safety, and welfare of the people of the State and of the communities in which the areas exist.

(d) That the necessity in the public interest for the provisions of this part is declared to be a matter of legislative determination."
[emphasis added]

Finally, Section 33039 provides, in part, as follows:

"The Legislature of the State of California recognizes that among the principal causes of slum and blighted residential areas are the following factors:

(a) Inadequate enforcement of health, building, and safety laws.

...It is, therefore, declared to be the public policy of this State that, in order to cope with the problems of the rehabilitation of slum and blighted areas, these factors shall be taken into consideration in any rehabilitation or redevelopment program. It is further declared to be the public policy of this State that such rehabilitation or redevelopment programs shall not be undertaken and operated in such a manner as to exchange new slums for old slums or as to congest individuals from one slum to another slum."
[emphasis added]

Thus it is within State policy on Community Redevelopment not only to execute redevelopment projects for the purpose of removal of physical blight but also look to those social and economic aspects that accompany blight. It is also the responsibility of the Agency to plan and execute its projects in such a manner that adequate protection of life and property is provided within project areas.

Removal of Social Blight vs. Physical Blight

However, there are no additional provisions within the Community Redevelopment Law that clearly provide for expenditure of project funds for social programs such as a law enforcement program to protect City or Agency owned properties. The law is unclear on what Agency costs such as these in the execution of a redevelopment project can be paid from tax increment funds. The law is fairly clear on such things as financing of public improvements (§33446) and transportation collection systems (§§33445 and 33446), "last resort" relocation housing (§33411.4), replacement housing (§33413), demolition and clearance (§33420), project improvements (§33421), and real property acquisition (§33391), etc. In short, the law is fairly explicit in granting the Agency authority to finance and carry out those activities directly related to removal of physical blight and the subsequent redevelopment of a project area.

It can be forcibly argued that removal of social blight such as crime was intended by the Legislature when it set forth the State policy in the law. The best chance for expenditures in the area of social

programs to be upheld by a court would be to set strict standards on these expenditures. We think that such standards should reflect the generally accepted purpose of redevelopment itself. These standards should reflect the "temporary" nature of the process, the "extraordinary" public activity to precipitate private action and investment. Finally, there should be strict adherence to the benefit to project concepts embodied in §33345 relating to expenditures of tax increments for public improvements. Thus expenditures of tax increments for a law enforcement program should: (1) be limited in duration; (2) be directed to meet a specific blighting influence, i.e., a specific crime problem such as burglary or vandalism, (3) be for extraordinary services above and beyond those generally provided throughout the community and not in lieu thereof; and (4) directly benefit in a tangible sense the project area from which the tax increment funds are derived, i.e., door check police patrols to protect project properties within the project.

Execution and Financing

With respect to the execution and financing of project activities we must look to other powers of the Agency. Among the powers of an agency are the power to "make and execute contracts and other instruments necessary or convenient to the exercise of its powers" (§33125) and the power to "[o]btain, hire, purchase...services" (§33127).

In addition, Section 33128 provides: "For the purposes of the agency, it shall have access to the services and facilities of the planning commission, the city engineer, and other departments and offices of the community."

The Agency may also "accept financial assistance from public or private sources as authorized by Chapter 6 (commencing with Section 33600) or any other provision of this part." Chapter 6 provides for several methods of financing redevelopment projects. Among those are included provisions for financing projects with tax increments. Section 33670 provides in pertinent part that "[T]hat portion of the levied taxes each year in excess of...[the base year] amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by such redevelopment agency to finance or refinance, in whole or in part, such redevelopment project." [emphasis added]

CONCLUSION

It is our conclusion that the Community Redevelopment Law is unclear with respect to expenditure of tax increment funds to carry out social programs such as law enforcement for the reduction of crime in a project area. However, State policy seems to include the removal or reduction of such social problems as within the purview of the redevelopment process. It is our view that such expenditures would stand the best chance of being upheld in a court of law if they were made within strict limitations. We suggest the following limitations: (1) the duration of the special program to be set to reflect the temporary addition of services, i.e., one or two years with a regular review; (2) the thrust of the program be directed toward the elimination of a specific blighting problem, i.e., vandalism, theft, burglary; (3) that the services rendered be of an extraordinary nature, above and beyond similar services provided generally throughout the community; and (4) the services should directly benefit in a tangible way the project area from which the tax increments are derived.

GEORGE B. BEATTIE
Agency Attorney

GBB.bj

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

November 22, 1977 EXHIBIT "C"

TO: Mayor Phillip L. Isenberg

FROM: Richard H. Hyde, Chief Counsel

SUBJECT: Use of Tax Increment Funds for Low and Moderate Income Housing - Central City Development Project

You have asked my opinion regarding the legal ability of the Redevelopment Agency to allocate tax increment funds generated by the Central City Development Project for the construction of low and moderate income housing units.

CONCLUSION

It is my opinion that:

1. Central City Development Project tax increment funds can be used to replace low and moderate income housing units which have been destroyed or removed as part of the redevelopment project;

2. Such funds can also be used to construct low and moderate income housing units, to replace units which the Agency reasonably anticipates will be destroyed or removed as part of the redevelopment project area; and

3. Such funds can be used to construct low and moderate housing in excess of those required to replace low and moderate housing units which have been or will be demolished as part of the redevelopment project only if the Redevelopment Plan is amended to expressly so provide.

ANALYSIS

Health and Safety Code Sections 33413 and 33334.2 both authorize the Agency to utilize tax increment funds for the construction of low and moderate income housing units.

Section 33413

Section 33413 requires redevelopment agencies to replace low and moderate income housing units which are destroyed or removed as

part of the redevelopment project. While this section is not mandatory with respect to the Central City Development Project, the Agency may, by resolution, make these provisions applicable to this project. Accordingly, should the Agency elect to make these provisions applicable to the redevelopment project, it could utilize tax increment funds generated by this project to construct low and moderate income housing to replace those units which have been destroyed as part of the redevelopment project.

In addition, it is my opinion that the Agency may utilize such funds for the construction or rehabilitation of low and moderate income housing units where the Agency reasonably anticipates it will demolish or remove such units as part of the redevelopment project. This follows from the clear intention of this section that the Agency minimize the impact of redevelopment activities on the available supply of low and moderate income housing units.

Section 33334.2

Section 33334.2 provides that subject to certain exceptions, not less than 20 percent of all tax increment funds shall be used by the Agency for increasing and improving the community supply of low and moderate income housing. As with Section 33413, this section is not mandatory with respect to the Central City Project unless the Agency elects to make it applicable.

It is my opinion that the constitutionality of this section is questionable because this section does not obligate the Agency to relate the construction of these units to the accomplishment of the objectives of the Redevelopment Plan. It should be noted that the Central City Redevelopment Plan does not expressly provide for the use of tax increment funds for the construction of low and moderate housing. Because of this, it is my opinion that should suit be filed challenging the constitutionality of the expenditures of Central City Development Project tax increments pursuant to this section, the courts may very well find that this section is illegal. On the other hand, if the Agency amends this Redevelopment Plan to include the expenditure of these funds as part of the redevelopment project, then I believe the courts will approve these expenditures.

RICHARD H. HYDE
Chief Counsel

RHH.bj

(49)

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

February 22, 1978

EXHIBIT "D"

TO: Mac Mailes, Assistant City Manager

FROM: Richard H. Hyde

You have asked me to prepare this memorandum addressing the following:

1. Define the following statutory language:

   a. "Loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred" as used in Section 33670.*

   b. "Benefit" as used in Section 33445; and

   c. "No other reasonable means of financing such buildings, facilities, structures or other improvements are available to the community" as used in Section 33445.

2. a. Generally discuss restrictions on the use of tax increment funds.

   b. Specifically discuss those uses of tax increment funds which the law clearly permits.

   c. Specifically discuss those uses of tax increment funds which the law clearly prohibits.

   d. Specifically discuss those uses of tax increment funds which the law neither clearly permits nor clearly prohibits.

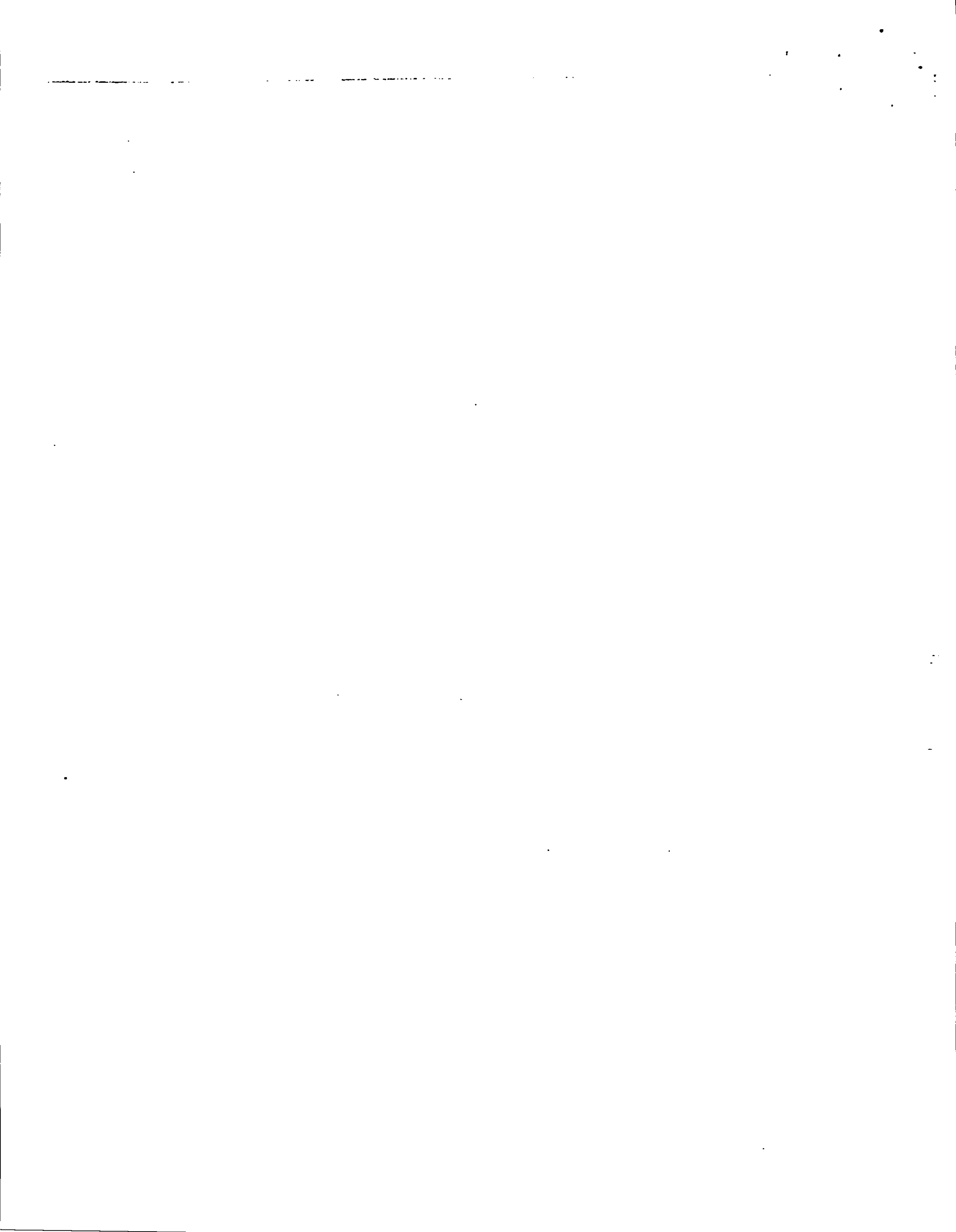
3. Discuss the ramifications of an illegal expenditure of tax increment funds.

SUMMARY

1. a. The statutory language "Loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise)

---

* Unless otherwise noted, all section references are to the Health and Safety Code.



incurred" as used in Section 33445 means existing and anticipated legal obligations of the Agency.

1. b. The statutory language "Benefit" as used in Section 33445 means a uniquely positive affect on the project area as compared to the affect on the remainder of the City.

1. c. The statutory language "No other reasonable means of financing such buildings, facilities, structures or other improvements are available to the community" as used in Section 33445 means that assuming tax increment funds were not available, the City would not undertake the project.

2. a. Tax increment funds can be used to pay all costs incurred by the Redevelopment Agency for any activity the Agency can legally perform if the activity accomplishes an objective of the redevelopment plan for the redevelopment project which generated these tax increment funds.

2. b. The Agency can legally perform those activities expressly authorized by the Community Redevelopment Law (Section 33000, et seq.) (e.g., land acquisition, demolition, relocation, site improvements, the construction of low income housing projects).

2. c. The Agency cannot legally perform those activities expressly prohibited by the Community Redevelopment Law. This Law expressly prohibits the Agency from performing only one activity, namely, the construction of buildings, except (1) public buildings in certain situations, and (2) buildings to house low and moderate income persons and families.

2. d. The Community Redevelopment Law neither expressly permits nor expressly prohibits the Agency's performance of many activities which relate directly to the elimination of blight in a project area. While this Law is not clear on the use of these funds for these activities, it is my opinion that to the extent these activities make Agency bonds more marketable, tax increment funds can be used to pay the cost of performing these activities. To the extent these activities do not make Agency bonds more marketable, it is my opinion that tax increment funds cannot be used to pay the cost of performing these activities.

3. Illegally expended tax increment funds can be recovered from the party who received these funds. In the event these funds are not recovered, a deficit will result in the tax increment account. This deficit will have to be eliminated by allocating other local funds to this account, or the Agency will default in the performance of its obligations to a third party.

ANALYSIS

1. a. "LOANS, MONEYS ADVANCED TO, OR INDEBTEDNESS (WHETHER FUNDED, REFUNDED, ASSUMED, OR OTHERWISE)" as used in Section 33670.

This statutory language describes the basis upon which tax increment funds are paid to the Agency. The basis upon which these funds can be expended by the Agency is discussed below under the discussion of permitted and prohibited uses of tax increment funds.

The introductory paragraph and subsections (a) and (b) of Section 33670 provide as follows:

> "Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called 'taxing agencies') after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:
>
> "(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such ordinance, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the assessed valuation of the taxable property in the project on the effective date), and
>
> "(b) That portion of the levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness

(whether funded, refunded, assumed, or otherwise) incurred by such redevelopment agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When such loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid."

This portion of Section 33670 is taken verbatim from the California Constitution (Article XVI, Section 16). There are no reported California Court decisions or Attorney General's opinions construing the meaning of the statutory language "loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise)".

It is my opinion that this statutory language means existing and anticipated legal obligations of the Agency. The term "legal obligation" is discussed below under the discussion of permitted and prohibited uses of tax increment funds. Briefly, the term "legal obligations" means obligations of the Agency which (1) are based on activities the Agency can legally perform, and (2) accomplish an objective of the redevelopment plan for the redevelopment project which generated the tax increment funds.

This analysis will separately consider existing and anticipated legal obligations of the Agency.

Existing Obligations

The Agency has an existing obligation where it is required by a contract to perform a specific action. There are two general types of existing obligations. The first type involves obligations to make payments to another party pursuant to a contract between the Agency and that party (e.g., bills payable to a contractor under a construction contract; payments to a trustee on account of bonds issued by the Agency). In this type of existing obligation, the required action, the time for performing this action and the cost of performing this action are all determined by reference to the contract. A "legal obligation" of this type is clearly included

within the meaning of the statutory language "loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise)".

The second type of existing obligations are obligations to perform specific actions at some time in the future (e.g., the construction of a parking facility by the Agency pursuant to an existing contract between the Agency and a developer). In this type of existing obligation, the required action is certain but both the time for performing the action (e.g., when the parking facility is to be completed) and the cost of performing this action (e.g., the cost of constructing the parking facility) are uncertain. This uncertainty exists because the performance of this action is conditioned on the occurrence of a specified event (e.g., the development of other property in a project area which will eliminate surface parking spaces thereby requiring the construction of the parking facility). As the times of the occurrence of this specified event is uncertain, both the time for performing this action and the cost of performing this action are uncertain. These two factors distinguish this type of existing obligation from the first type of existing obligation. It is my opinion that notwithstanding the presence of these two factors legal obligations of this type are included within the meaning of the statutory language "loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise)".

Section 33670 provides for the payment of tax increment funds to the Agency until all obligations of the Agency have been paid. It is clear that the authors of this subsection intended that tax increments would be payable to taxing entities only after the redevelopment project was completed and all obligations were paid. The Court in <u>Redevelopment Agency of the City of Sacramento v. Malaki</u> (1963) 216 C.A.2d 480, 486) stated that the "general objective" of Article XVI, Section 16 and the above-quoted portions of Section 33670 were to provide for the payment of tax increment funds to the Agency to pay the cost of the redevelopment project and to <u>defer payments to taxing entities until these costs have been paid</u>. The Court quoted from the Secretary of State's 1952 ballot pamphlet (prepared in connection with the amendment to the Constitution adding the provisions contained in Article XVI, Section 16) as follows:

> "It will make possible the passage of laws providing that tax revenues derived from any increase in the assessed value of property within a redevelopment area because of new improvements, shall be placed in a fund to defray all or part of the costs of the redevelopment project that would otherwise have to be advanced from local public funds."

The Court then went on to say "thus the profit from increased valuation is to be available for bonding purposes. The objective is to make interim tax profits available for bonds and to defer the profits of general government until the bonds are paid."

While the Court used the term "bonding purposes", this analysis applies equally to any indebtedness of the Agency. The Court's characterization of indebtedness as "bonds" is understandable. Until recently the portion of the cost of a redevelopment project paid by the Agency was financed exclusively by the issuance of tax increment bonds. It is now common to finance redevelopment projects with other forms of indebtedness. Section 33675 quoted below clearly contemplates types of indebtedness in addition to bonded indebtedness.

Accordingly, it is my opinion that uncertainty regarding either the cost of performing an action or the time performing this action does not affect the payment of tax increment funds to the Agency.

This opinion is supported by Section 33675*. This Section provides the procedure for the allocation and payment of tax increment funds to the Agency. This Section provides as follows:

> "§33675. Allocation and payment procedure
>
> "(a) The portion of taxes required to be allocated pursuant to subdivision (b) of Section 33670 shall be allocated and paid to the Agency by the county auditor or officer responsible for the payment of taxes into the funds of the respective taxing agencies pursuant to the procedure contained in this section.
>
> "(b) Not later than the first day of October of each year, the agency shall file with the county auditor or officer described in subdivision (a) of this section, a statement of indebtedness certified to by the chief fiscal officer of the agency for each redevelopment project, the redevelopment plan for which provides for the division of taxes pursuant to Section 33670.

---

* The Legislature has enacted three sections of this number. As used in this memorandum Section 33675 refers to the Section added by Section 22 of Chapter 1337, Statutes of 1976.

"(c) The statement of indebtedness shall contain for each such redevelopment project:

"(1) The date on which each loan, advance, or indebtedness was incurred or entered into.

"(2) The principal amount term, purpose, and interest rate, of each loan, advance, or indebtedness.

"(3) The outstanding balance and amount due or to be paid by the agency of each loan, advance, or indebtedness. The State Board of Equalization shall adopt a uniform form of statement of indebtedness.

"(d) The county auditor or officer shall at the same time or times as the payment of taxes into the funds of the respective taxing agencies of the county, allocate and pay the portion of taxes provided by subdivision (b) of Section 33670 to each agency in an amount not to exceed the amount as shown on the agency's statement of indebtedness.

"(e) The statement of indebtedness shall be prima facie evidence of the indebtedness of the agency. If the county auditor or other officer disputes the amount of indebtedness as shown in the statement of indebtedness, the county auditor or other officer shall, within 30 days after receipt of the statement, give written notice to the agency thereof. The agency shall, within 30 days after receipt of such notice, submit such further information as it deems appropriate to substantiate the amount of any indebtedness which has been disputed. If the county auditor or other officer still disputes the amount of indebtedness, final written notice thereof shall be given to the agency and the amount disputed may be withheld from allocation and payment to the agency as provided in subdivision (c) of this section. In such event, the auditor or other officer shall bring an action in the superior court in declaratory relief to determine the matter not later than 90 days after the date of the final notice. The issue in any such action shall involve only the amount of indebtedness, and not the validity of any contract or debt instrument or any expenditures pursuant thereto. Payments to a trustee under a bond resolution or indenture or any kind of payments to a public agency in connection with payments by such public agency pursuant to a lease or bond issue shall not be disputed in any action under this section. Any such action shall be set for trial at the earliest possible date and shall take precedence of all other cases except older matters of the same character. Unless an action is brought

within the time provided for herein, the auditor or other officer shall allocate and pay the amount shown on the statement of indebtedness as provided in subdivision (d) of this section.

"(f) Nothing in this section shall be construed to permit a challenge to or attack on matters precluded from challenge or attack by reason of Sections 33500 and 33501; provided that nothing in this section shall be construed to deny a remedy against the agency otherwise provided by law."

This Section expressly provides for the resolution of disputes regarding the "amount of indebtedness" but not the validity of any debt instrument. Accordingly, this Section assumes the obligation (debt instrument) is valid and provides for the resolution of disputes regarding the amount of the Agency's obligation. As such disputes can only arise where this amount is uncertain, it is my opinion that the Legislature recognized that tax increments are paid to the Agency in situations where this amount is uncertain.

Anticipated Obligations

An anticipated obligation exists where the Agency intends to take a certain action at some time in the future but has no existing obligation to take this action. Section 33670 read alone provides that tax increments are paid to the Agency on account of anticipated obligations. The last sentence of subsection (b) of that Section provides for the payment of tax increment funds to the taxing entities only when all loans, advances and indebtedness of the Agency have been paid. This Section does not provide for subsequent payments to the Agency on account of future obligations.

Accordingly, this Section provides for the payment of tax increment funds on account of anticipated obligations.

However, the recent enactment of other sections of the Community Redevelopment Law appear to contemplate that tax increment funds are not payable on account of anticipated obligations. While I believe these sections are unconstitutional to the extent they prohibit the payment of tax increment funds on account of these obligations, these sections do not create a serious problem for the Agency even assuming they are constitutional. This follows from the fact that it is unlikely that the Agency will have an anticipated obligation which is not readily converted into an existing obligation by way of an agreement between the Agency and the City. So long as the Agency can legally perform an activity, it can enter into an agreement with the City by which the Agency is obligated to perform this activity (Section 33220(e)).

This agreement will constitute an existing obligation of the Agency of the second type discussed above. As noted above, it is my opinion that this type of existing obligation is included in the meaning of the term "loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise)" as used in Section 33670 and accordingly, tax increment funds are payable to the Agency on account of this type of obligation.

Because of the uncertainty regarding the Agency's right to receive tax increment funds based on anticipated obligations, it is my recommendation that the Agency convert such obligations into existing obligations whenever it appears that the total amount the Agency is liable for under other existing obligations is less than the estimated amount of tax increments which will be generated by the redevelopment project within the next year.

1. b. "BENEFIT" as used in Section 33445.

Section 33445 provides in part, as follows:

> "Notwithstanding the provisions of Section 33440, an agency may, with the consent of the legislative body, pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or without the project area, if the legislative body determines:
>
> "(1) that such buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether such improvement is within another project area, or in the case of a project area in which substantially all of the land is publicly owned that such improvement is of benefit to an adjacent project area of the agency, and
>
> "(2) that no other reasonable means of financing such buildings, facilities, structures, or other improvements are available to the community. Such determinations by the agency and the local legislative body shall be final and conclusive. For redevelopment plans, and amendments to such plans which add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan." [emphasis added]

This Section authorizes the Agency to pay the cost of constructing a public building upon a determination that, among other things, the building is of benefit to the redevelopment project. There are no reported Court decisions or Attorney General's opinions construing the meaning of this word. Accordingly, the extent the public building must benefit the project area before the agency can make this benefit determination is not clear.

It is my opinion that, while this benefit need not be a predominent benefit to the project area, the building must affect the project area uniquely as compared with the remainder of the City. This opinion is based on the Court of Appeals decision in Card v. Community Redevelopment Agency of South Pasadena (1976) 61 C.A.3rd 570). In that decision the Court invalidated an amendment to a redevelopment plan which added a noncontiguous area to the original redevelopment project area. The Court stated that the area being added "would not affect the original project area uniquely to that area as compared with the remainder of the City". The Community Redevelopment Law does not expressly require a unique relationship between the area being added and the original project area. The Court in Card, however, had little difficulty requiring this relationship. It is reasonable to conclude that a Court will require the same relationship for a "benefit" determination.

Accordingly, it is my opinion that in order to make the "benefit" determination the City must first determine that the building uniquely affects the project area in a positive manner as compared with the remainder of the City.

The City's determination regarding benefit is "final and conclusive". So long as the City uses a reasonable approach in making this determination, the Courts will not invalidate the expenditure. (Sweetwater Valley Civic Association v. City of National City (1976) 18 C.A.3d 270).

1. c. "NO OTHER REASONABLE MEANS OF FINANCING SUCH FACILITIES, STRUCTURES OR OTHER IMPROVEMENTS ARE AVAILABLE TO THE (CITY)" as used in Section 33445.

The relevant portion of this Section is quoted above.

As with the statutory language discussed above, there are no reported Court decisions or Attorney General's opinions construing the meaning of this language.

It is my opinion the only reasonable interpretation of this language is to construe it to require no other reasonable means of financing in light of other City priorities. To

construe this language otherwise, is to require the City to in effect give a "super priority" access to City funds to those projects which could otherwise be financed with tax increment funds. This reading renders the entire section meaningless, as it is difficult to conceive of a situation where the City would not have funds available if it applied a "super priority" to such projects.

In my opinion the appropriate approach is to determine whether or not the City would construct the building if tax increment funds were not available. If the answer is yes, then another reasonable source of funds is available to the City and tax increment funds cannot be used. If, on the other hand, the answer is no, the City can legally determine that no other reasonable source of funds is available.

As noted above, the City's determination regarding no other reasonable source being available, will not be invalidated by a Court, so long as the City used a reasonable approach in making this determination.

2. <u>USES OF TAX INCREMENT FUNDS</u>

This analysis centers with the question of whether or not a particular expenditure of tax increment funds is a permitted use of these funds. The basic statutory provisions dealing with the use of tax increment funds is the first sentence of subsection (b) of Section 33670. This sentence contains five major elements:

> "(1) That portion of the levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the Redevelopment Agency (2) to pay the principal of and interest on (3) loans, moneys advanced to or indebtedness (whether funded, refunded, assumed, or otherwise) (4) incurred by such Redevelopment Agency and (5) to finance, in whole or in part, such a redevelopment project".

The first element of this sentence describes those funds which are normally referred to as "tax increment funds". The second element is self-explanatory. These two elements do not bear on the above question. Accordingly, to determine whether a particular expenditure of tax increment funds is a permitted use of these funds, we must analyze these latter three elements.

It is my opinion that if an expenditure satisfies the following three tests, it is a permitted use of tax increment funds.

(1) The expenditure is based on an obligation to make payments to another party pursuant to a contract between the Agency and that party (Third element);

(2) The expenditure is based on an activity the Agency can legally perform (Fourth element);

(3) The expenditure is based on an activity which is necessary or convenient to the carrying out of the redevelopment project (Fifth element).

THIRD ELEMENT: "loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise)"

As stated above under the discussion of the definition of this statutory language, it is my opinion that tax increments are paid into a special fund of the Agency to the extent of existing and anticipated legal obligations of the Agency. It is obvious that these tax increment funds can only be paid out of this special fund to make payments to another party pursuant to a contract between the Agency and that party. Tax increment funds paid into this special fund are retained in this account until such time as the existing or anticipated legal obligations of the Agency are converted to the first type of existing obligation discussed above. Accordingly, it is my opinion that this third element requires that tax increments be used for payments to another party pursuant to a contract between the Agency and that party.

FOURTH ELEMENT: "Incurred by such Redevelopment Agency"

A Redevelopment Agency can only incur legal obligations to the extent it is empowered to undertake the activity upon which the obligations are paid. For purposes of utilizing tax increment funds to pay the obligation, the Agency is authorized to undertake only those activities authorized under the Community Redevelopment Law. (Sections 33010, 33670). The specific activities the Agency is authorized to undertake are discussed below.

FIFTH ELEMENT: "to finance, or refinance, in whole or in part, such redevlopment project"

This term describes the required relationship between (1) the activities for which the tax increment funds are expended and (2) the redevelopment project which generated these funds.

Section 33010 defines a redevelopment project as "any undertaking of (the redevelopment) agency pursuant to the Community

Redevelopment Law." In this analysis we are only concerned with those activities (undertakings) of the Agency which relate to a redevelopment project for which a redevelopment plan has been adopted by the Agency. If the Agency has not adopted a redevelopment plan tax increment funds cannot be paid to the Agency pursuant to Section 33670. (Constitution Article XVI, Section 16, Section 33670).

The law grants broad powers to the Agency to "plan and carry out (undertake) plans for the redevelopment of blighted areas." (Section 33131(a)), and to "enter into contracts both necessary and convenient for the carrying out of such plans" (Section 33125(c)). Accordingly, so long as the activity is "necessary or convenient" for the carrying out of a redevelopment plan the relationship required by this fifth element is satisfied. The Agency determines whether a particular activity is "necessary or convenient" for the carrying out of a redevelopment plan. All such activities need not be specified in the redevelopment plan and so long as the Agency's determination in this regard is reasonable, it will not be reversed by the Courts. (In re Urban Renewal Project 1B (1964) 61C.2d 21)

Assuming a proposed expenditure satisfies the third and fifth elements, the question remains as to whether this proposed expenditure is based on an activity the Agency is authorized to undertake under the Community Redevelopment Law. Section 33122 provides in part that the "agency has the powers prescribed in (the Community Redevelopment Law)." Accordingly the question becomes whether the Community Redevelopment Law authorizes the Agency to perform a specific activity. Possible Agency activities will be discussed in three categories. First, those activities which the Community Redevelopment Law clearly authorizes the Agency to perform. (Permitted uses of tax increment funds). Second, those activities which the Community Redevelopment Law clearly prohibits the Agency from performing. (Prohibited uses of tax increment funds). Third, those activities which the Community Redevelopment Law neither clearly authorizes nor clearly prohibits. (Uses of tax increment funds which are neither clearly permitted nor clearly prohibited.)

2. a. Permitted Uses of Tax Increment Funds

Attached is a copy of my September 26, 1974 memorandum to Phillip Isenberg and a copy of my November 22, 1977 memorandum to Phillip Isenberg. The 1974 memorandum lists permitted uses of tax increment funds as the law existed at that time. The 1977 memorandum discusses funds generated by the Central City Development Plan to provide low and moderate income housing. The 1977 memorandum is equally

applicable to tax increment funds generated in other redevelopment projects.

Subsequent to 1974, the Community Redevelopment Law (Health and Safety Code, Section 33000, et seq.) has been amended to additionally permit the following uses of tax increment funds:

1. Make in lieu property tax payments to any taxing entity (Section 33401).
2. Replace dwelling units which housed persons and families of low or moderate income and which were destroyed or removed from the low or moderate income housing market as part of the redevelopment project (Section 33413).
3. Acquire, construct or rehabilitate structures in order to provide housing for persons and families of low and moderate income (Section 33449).

2. b. Prohibited Uses of Tax Increment Funds

With one exception, the Community Redevelopment Law does not prohibit specific uses of tax increment funds. This exception is set forth in Section 33440. This Section prohibits the Agency from constructing any buildings for residential, commercial, industrial or other use.

This prohibition is modified by both Section 33445 and Section 33449.

Section 33445 permits the Agency to pay all or part of the value of the land for and the cost of the construction of any building which is publicly owned either within or without the project area. This modification requires the City to make two determinations before the Agency can use tax increments for this purpose. The first determination is that the building benefits the project area or the immediate neighborhood in which the project is located. The second determination is that no other reasonable means of financing this building is available to the City. The meaning of the language "benefit" and "no other reasonable means of financing" were discussed above.

Section 33449 permits the Agency to construct buildings in order to provide housing for persons and families of low and moderate income. This section does not require the building to be publicly owned, nor does it require that the City make the determinations required in Section 33445.

2. c. Uses of tax increment funds which are neither clearly permitted nor clearly Prohibited.

The Community Redevelopment Law authorizes the Agency to perform specific activities listed above under the discussion of permitted uses of tax increment funds. In addition, this law contains the following general authorizations with respect to the undertaking of redevelopment projects:

1. Prepare and carry out plans for the improvement, rehabilitation and redevelopment of blighted areas (Section 33131(a)).

2. Do any and all acts or things as may be necessary, convenient or desirable except as otherwise provided in the Community Redevelopment Law which acts or things will tend to make bonds of the Agency more marketable notwithstanding the fact that such acts or things may not be enumerated in the Community Redevelopment Law. (Section 33659(c)).

The Community Redevelopment Law expressly authorizes those physical activities the Agency normally undertakes as part of a redevelopment project. However, this law, with one exception does not expressly authorize the Agency to undertake non-physical activities the Agency may want to undertake as part of a redevelopment project. These non-physical activities are generally termed "social programs". The one exception is the authorization of the Agency to pay subsidies to persons and families of low and moderate income to assist them in obtaining housing (Section 33449).

This analysis will deal with the questions of whether Sections 33131(a) or 33659(c) authorize the use of tax increments to pay obligations based on social programs which are not expressly authorized by the Community Redevelopment Law.

These two sections will be separately analyzed as to the extent to which they authorize the Agency to use tax increment funds to pay these obligations.

<u>Section 33131(a)</u>

The basic question in interpreting this section is to determine whether the term "redevelopment plan" as used in Article XVI, Section 16 of the California Constitution, Section 33670 means (1) plans for the redevelopment of blighted areas or (2) plans for the improvement, rehabilitation and redevelopment of blighted areas. This question is crucial as Section 33670 authorizes the payment of tax increment funds to the Agency only if the "redevelopment plan" expressly states that these funds are to be paid to the Agency.

If the term "redevelopment plan" only includes plans for the redevelopment of blighted areas, then funds may only be used for "redevelopment activities". "Redevelopment activities" are defined in Sections 33020 and 33021. These sections limit redevelopment activities to physical activities and accordingly, do not include social programs except the one social program expressly authorized by the Legislature.

If, on the other hand, the term "redevelopment plan" includes plans for the improvement and rehabilitation of blighted areas, then tax increment funds may be used for activities in addition to "redevelopment activities" (e.g., social programs). It can be argued that it is unreasonable to believe that the Legislature intended that blight could only be eliminated through the employment of "redevelopment activities". This argument is supported by statements of legislative intent contained in the Redevelopment Law. The most direct statement of intent is contained in subsection (a) of Section 33037.

This subsection provides that it is the policy of the State "to protect and promote the sound development of blighted areas and the general welfare of the inhabitants of the communities in which they exist by remedying such injurious conditions to the employment of all appropriate means."

However, it is my opinion that had the Legislature intended that agencies use tax increment funds for social programs, it would have specifically authorized the Agency to undertake these activities. I reached this conclusion based on the extensive regulation of the manner of undertaking "redevelopment activities" set forth in the Community Redevelopment Law. This law does not regulate the manner in which the Agency undertakes social programs. It is unreasonable to conclude that the Legislature would extensively regulate the use of tax increment funds for redevelopment activities while permitting the unregulated use of these funds for social programs. The only logical conclusion is that the Legislature intended that tax increment funds be used only to carry out "redevelopment activities". Accordingly, it is my opinion that the term "redevelopment plan" as used in Article XVI, Section 16 of the California Constitution, Section 33670, means plans for the redevelopment of blighted areas.

I want to emphasize that the law is uncertain regarding this question. I have discussed this question with a number of redevelopment law attorneys. While they are divided on this question, they all agree the law is uncertain on this

point. This uncertainty can be clarified either by requesting an opinion of the Attorney General regarding this question or by amending the Community Redevelopment Law to include social programs within the definition of "redevelopment activities".

Section 33659(c)

Subject to the following limitations, this section authorizes the Agency to undertake any activity, including social programs. This authorization is subject to the following limitations:

1. The Agency must determine that the activity will significantly enhance the marketability of its bonds. This determination should be based on an opinion of a qualified financial consultant.

2. The Agency must anticipate the issuance of bonds in the near future. Note that where the bonds are secured by a lease with the City (e.g., lease revenue bonds - the type of bonds used to finance the cost of the Old Sacramento South Parking Structure) the activity must relate to the marketability of those bonds. As the amount of tax increments paid to the Agency does not affect the marketability of these bonds, the activity cannot be aimed solely at increasing the amount of tax increment funds paid to the Agency.

3. The activity must be limited, both in terms of scope and duration, to the extent necessary to enhance the marketability of these bonds. Stated otherwise, the activity cannot be undertaken for a period of time beyond that necessary to enhance the marketability of these bonds.

3. RAMIFICATIONS OF AN ILLEGAL EXPENDITURE OF TAX INCREMENT FUNDS

As noted above, tax increment funds can only be expended for obligations of the Agency which:

1. are based on activities the Agency can legally perform; and

2. benefit the redevelopment project which generated these tax increment funds.

All other expenditures are illegal.

The Agency can recover any illegally expended funds from the person to whom the funds were paid. (McQuillin Municipal Corporations (3rd Edition, 1970 Revised Volume Section 39.37, P. 113.) If for some reason the funds are not recovered (e.g., the person to whom the funds were paid is insolvent) a deficit will result in the tax increment account. This deficit results because tax increment funds are paid to the

Agency only to the extent of its indebtedness. An illegal expenditure does not constitute a debt of the redevelopment project, and therefore tax increment funds will not be paid because of this expenditure.

This deficit will have to be eliminated by using other Agency funds (e.g., emergency reserve funds). In the event these funds are insufficient, the Agency would have to obtain the necessary funds from the City, or default in the performance of its obligation to a third party.

EXHIBIT "E"

COMMUNITY REDEVELOPMENT LAW

(Part 1 of Division 24 of California Health and Safety Code)

Chapter				Beginning at Section
1	GENERAL			
	Article	1.	General Definitions	33000
		2.	Redevelopment	33020
		3.	Declaration of State Policy - Blighted Areas	33030
		4.	Declaration of State Policy - Antidiscrimination	33050
		5.	Further Declaration of State Policy	33070
2	REDEVELOPMENT AGENCIES			
	Article	1.	Creation of Agencies	33100
		2.	Appointment, Compensation and Removal of Agency Members	33110
		3.	Nature, Jurisdiction, and General Powers of Agencies	33120
		4.	Suspension and Dissolution of Agencies	33140
3	OTHER ENTITIES UNDERTAKING OR ASSISTING REDEVELOPMENT			
	Article	1.	Legislative Body as the Agency	33200
		2.	Joint Exercise or Delegation of Power to Redevelop	33210
		3.	Aid, Assistance, and Co-Operation	33220
		4.	New Community Development	33250
4	REDEVELOPMENT PROCEDURES AND ACTIVITIES			
	Article	1.	Community Prerequisites	33300
		2.	Designation of Survey Area	33310

Chapter				Beginning at Section
4 (Cont)	Article	3.	Selection of Project Area and Formulation of Preliminary Plans	33320.1
		4.	Preparation and Adoption of Redevelopment Plans by the Agency	33330
		4.5	Alternative Procedures for a Joint Public Hearing by the Agency and the Legislative Body	33355
		5.	Procedure for Adoption of Redevelopment Plans by the Legislative Body	33360
		5.5	Referendums	33378
		6.	Owner Participation	33380
		6.5	Project Area Committee	33385
		7.	Property Acquisition	33390
		8.	Property Management	33400
		9.	Relocation of Persons Displaced by Projects	33410
		10.	Demolition, Clearance, Project Improvements, and Site Preparation	33420
		11.	Property Disposition, Rehabilitation and Development	33430
		12.	Amendment of Redevelopment Plans	33450
		13.	Merger of Redevelopment Project Areas in the City of Sacramento	33460
		14.	Merger of Redevelopment Project Areas in the City of San Bernardino	33470
		14.2	Merger of Redevelopment Project Areas in the City of San Leandro	33476
		14.5	Merger of Redevelopment Project Areas in the Cities of Richmond and Pittsburgh	33478
		15.	Merger of Redevelopment Project Areas in the Cities of Chula Vista, San Jose, and Santa Fe Springs	33480
		16.	Merger of Project Areas	33485
5	LEGAL ACTIONS			
	Article	1.	Actions Involving Redevelopment Plans or Bonds	33500
		2.	Actions for Money or Damages	33510

Chapter				Beginning at Section
6	FINANCIAL PROVISIONS			
	Article	1.	General	33600
		2.	Community Redevelopment Agency Administrative Fund	33610
		3.	Redevelopment Revolving Fund	33620
		4.	Community Appropriations and General Obligation Bonds	33630
		5.	Agency Bonds	33640
		6.	Taxation	33670
7	SPECIAL HOUSING AND RENEWAL			33701
8	REDEVELOPMENT CONSTRUCTION LOANS			
	Article	1.	General Provisions and Definitions	33750
		2.	Powers and Procedures	33760
		3.	Bonds and Notes	33775
		4.	Residential Construction	33790
9	SPECIAL ASSESSMENTS			
	Article	1.	Definitions	33800
		2.	Findings and Declarations	33810
		3.	Proceedings	33820
		4.	Collection of Assessments	33840
		5.	Legal Actions, Exceptions	33850

EXHIBIT "F"

I. SUBSTANTIVE OR PROGRAMMATIC POWERS

A. GENERAL

33020	Redevelopment; definitions
33021	Redevelopment; inclusions

B. SPECIFIC

33334.2	Housing for persons and families of low or moderate income; findings
33334.5	Replacement dwelling units; place provisions
33413	Replacement dwelling units; availability equal to number destroyed or removed; allocation requirements; application term of operation
33445	Payment for land or buildings publicly owned; contract with community or public corporation; agreement with rapid transit district
33446	School districts; construction and lease of buildings; title; terms and conditions
33447	Public services and facilities; low and moderate income housing fund; report; duration of section
33449	Acquisition, donation and improvement of land; construction or rehabilitation of structures; term of operation of rental housing development; application.

II. ADMINISTRATIVE OR MINISTERIAL POWERS

33125	Lawsuits; seal; contracts; bylaws and regulations
33126	Officers and employees; personnel rules and regulations; contracts for staff services
33127	Office; travel expenses
33131	Plans; dissemination of information; applications for federal programs and grants
33132	Public or private aid
33133	Other Assistance

33134	Insurance
33135	Providing relocation assistance
33334.2(e)	Housing for persons and families of low or moderate income; powers
33338.1	Financial burden or detriment to taxing agencies; inclusion of provisions for payment
33341	Bonds; expenditure of proceeds; repayment
33342	Acquisition of real property
33391	Methods
33392	Acquisition between formulation of preliminary plan and adoption of redevelopment plan; limitation on eminent domain
33396	Acceptance of surplus real property; disposition; funds
33401	Payments in lieu of property and school taxes; proportionate share distribution
33420	Clearing land
33421	Development of building sites
33430	Disposal of property interests
33442	Disposition of land for public housing
33460	Amendment of redevelopment plans; continuation of constituent projects under own plan
33600	Acceptance of financial and other assistance; expenditures
33601	Borrowing; state or federal government or public agency assistance; private lending institutions
33603	Investment of reserves and surplus funds
33640	Insurance; refunding
33641	Types
33650-33659	Powers of agency; bonds
33670	Division of taxes levied; allocation
33678	Redevelopment tax increment revenues not deemed to be proceeds of taxes within meaning of Const. Art. 13B; expenditure limitations; redevelopment activity; effect of future taxing power of agency.

III. SPECIFIC PROHIBITIONS

33335	Lease or sale of property; exception
33392	Acquisition between formulation of preliminary plan and adoption of redevelopment plan; limitation on eminent domain

33393	Acquisitions from members and officers; eminent domain
33395	Property devoted to public use; consent of public body
33421.1	Provision of improvements; findings
33432	Property required to be leased or sold; conditions
33440	Construction of buildings.

EXHIBIT IV

9/30/81

DISPLACEMENT OF HOUSING UNITS AND PAYMENT OF RELOCATION COSTS
(Approximate figures)

		Dwelling Units Demolished	Payments
Project No. 2-A	9/1/56 to 11/30/59	825 1/	$ 49,170
Project No. 3	4/15/61 to 11/30/70	195	118,835
Project No. 4	4/18/67 to 5/5/72	501 1/	418,536
NDP Areas	1970 to 6/30/76	196	345,556
Oak Park	7/1/75 to 10/31/76	9	34,490
CDBG	7/1/75 to 10/31/76	10	96,656
Singleperson's Facility	1976	5	42,250
Alkali Flat	7/1/76 to 9/30/77	44	153,425
CDBG	10/1/76 to 9/30/77	21	83,747
CDBG	10/1/77 to 9/30/78	11	19,382
CDBG	10/1/78 to 9/30/79	17	119,676
CDBG	10/1/79 to 9/30/80	11	19,465
		1,845	$1,501,188

1/ Dwelling unit count by definition at that time did not include residents of hotels.

(This table compiled by Technical Services Division)

EXHIBIT V

October 15, 1981

MEMO TO: BILL EDGAR, EXECUTIVE DIRECTOR, HOUSING & REDEVELOPMENT

FROM: L. M. FRINK, TRAFFIC ENGINEER

SUBJECT: RESPONSE TO ITEM #7 OF YOUR SEPTEMBER 2nd MEMO

I didn't receive your September 2nd memo regarding Budget & Finance follow-up reports until October 6th. Jack Crist says he never received his copy. Jack and I got together to prepare a response to Item #7 in your letter. Jack had his people dig out a lot of financial statistics that have probably not been put together in one place before.

The combined estimated available fund balance in the Parking Facilities Parking Fund and the Parking Authority Fund is $790,000 after deducting for the City's share of the I-5 Garage, the 1981-82 Parking Capital Improvement Program and the Revenue Control Project.

This does not consider fiscal year 1981-82 operating revenues and expenses, but it is estimated the available fund balance will increase as the off-street parking program is currently making a profit as shown below:

Year	Net Parking Revenue
74-75	$ 338,023
75-76	423,256
76-77	- 47,374
77-78	- 29,547
78-79	- 44,581
79-80	327,487
80-81	578,042

The City pays rent to the Redevelopment Agency based on a percentage of revenues from the lots we operate. This rent is growing as shown below:

Year	
74-75	$ 47,776
75-76	133,899
76-77	205,573
77-78	286,018
78-79	287,168
79-80	475,939
80-81	630,804

It appears that if the Agency puts their rental income from the parking lots aside for the Lot U garage project, there should be enough money in the combined City and Agency funds to pay for the new garage in a few years. The new garage could then be financed in a similar fashion to the way we recently financed the garage under I-5.

You may want to rephrase this before submitting it to the Committee.

LMF/mf cc: Jack Crist & Ron Parker

NET FUNDS AVAILABLE FOR NEW PROJECTS BY YEAR
(EXCEPT AS NOTED)

	1982	1983	1984	1985	1986
1. Parking Facility Fund					
Fund balance	$1,001,216	$ -0-	$ -0-	$ -0-	$ -0-
Revenue	1,115,571	831,800	914,980	1,006,478	1,107,125
Revenue and fund balance	$2,116,787	$ 831,800	$ 914,980	$1,006,478	$1,107,125
Expenditures-operating	-0-	-0-	-0-	-0-	-0-
Net Available	$2,116,787	$ 831,800	$ 914,980	$1,006,478	$1,107,125
2. Project No. 2-A					
Fund balance	$ 555,720	$ -0-	$ -0-	$ -0-	$ -0-
Revenue	1,153,625	1,176,697	1,200,231	1,224,235	1,248,719
Revenue and fund balance	$1,709,345	$1,186,697	$1,200,231	$1,224,235	$1,248,719
Expenditures-operating	-0-	-0-	-0-	-0-	-0-
Net Available	$1,709,345	$1,176,697	$1,200,231	$1,224,235	$1,248,719
3. Project No. 3					
Fund balance	$ 165,065	$ -0-	$ -0-	$ -0-	$ -0-
Revenue	444,978	639,407	462,954	472,213	481,657
Revenue and fund balance	$ 610,043	$ 639,407	$ 462,954	$ 472,213	$ 481,657
Debt Service	-0-	(639,407)	(462,954)	(472,213)	(481,657)
Net Available	$ 610,043	$ -0-	$ -0-	$ -0-	$ -0-
4. Project No. 4					
Fund balance	$1,502,731	$ -0-	$ -0-	$ -0-	$ -0-
Revenue	643,378	656,245	669,370	682,757	696,412
Revenue and fund balance	$2,146,109	$ 656,245	$ 669,370	$ 682,757	$ 696,412
Expenditures	-0-	-0-	-0-	-0-	-0-
Debt Service	-0-	(193,900)	(193,900)	(193,900)	(193,900)
Net Available	$2,146,109	$ 462,345	$ 462,345	$ 388,857	$ 502,512

EXHIBIT VI

EXHIBIT VI

	1982	1983	1984	1985	1986
5. Project No. 8					
Fund balance	$ 985,377	$ -0-	$ -0-	$ -0-	$ -0-
Revenue	1,469,840	1,499,237	1,529,221	1,559,806	1,541,002
Revenue and fund balance	$2,455,217	$1,499,237	$1,529,221	$1,559,806	$1,541,002
Expenditures-operating	-0-	-0-	-0-	-0-	-0-
Net Available	$2,455,217	$1,499,237	$1,529,221	$1,559,806	$1,541,002
6. Emergency Reserve					
Fund balance	$2,003,923	$ -0-	$ -0-	$ -0-	$ -0-
Revenue	239,740	244,534	37,600	507,600	37,600
Revenue and fund balance	$2,243,663	$ 244,534	$ 37,600	$ 507,600	$ 37,600
Expenditures-operating	-0-	-0-	-0-	-0-	-0-
Net Available	$2,243,663	$ 244,534	$ 37,600	$ 507,600	$ 37,600
7. Replacement Housing					
Fund balance	$ 929,774				
Revenue	301,398				
Revenue and fund balance	$1,231,172				
Expenditures-operating	-0-				
Net Available	$1,231,172				
TOTAL AVAILABLE	$12,512,336	$4,214,613	$4,157,502	$4,786,977	$4,486,958

EXHIBIT II

RECOMMENDED FINANCING PLAN - TAX INCREMENT

YEAR	ACTIVITY	ORIGINAL STAFF/COMMISSION RECOMMENDATION (JANUARY 4)	WORK SCHEDULE	RECOMMENDATION BY BUDGET & FINANCE COMMITTEE (FEBRUARY 23, 1982)
1982	Operating Expenditures	$1,487,000	Throughout 1982	$1,487,019
	Debt Service	574,610		574,610
	Capitol Improvements			
	a. Replacement Housing/ Commercial Revitalization	3,500,000	Prepare and adopt Replacement Housing Plan (March-April).	3,500,000
			Based on Replacement Housing Plan, merger of downtown project areas and updates of Oak Park/Del Paso Heights Plan, pare specific projects for funding, e.g., 3 projects at 20 units each (April-December).	
			Prepare a Commercial Revitalization loan program and report back by July 1, 1982 (120 days). Investigate use of tax increments and other funds for commercial revitalization.	
	b. Waterfront-Old Sacto	1,600,000	Approval of preliminary plans by all parties (March-May).	500,000
			Prepare plans and specs for Phase I and II (May-October).	
	c. Garage Art Work	300,000	Selection of artists (June) and construction in early 1983.	300,000
	d. Parking Control	187,000	Under construction.	187,000
	Revolving Loan Fund	1,500,000	Fund to be established and operated as needed, without time limits to purchase building (e.g., Enterprise Hotel, Diana and Fashion Saloon) that are not moving ahead. Agency would sell building to other developers and replenish loan fund.	1,500,000
			Specific use of this fund to be approved by Agency.	

ATTACHMENT II

YEAR	ACTIVITY	ORIGINAL RECOMMENDATION	WORK SCHEDULE	RECOMMENDATION BY BUDGET & FINANCE COMMITTEE (FEBRUARY 23, 1982)
1982	Reserves			
	a. Debt Service	$ 379,430		$ 379,430
	b. Contingency	100,000		100,000
	c. Carry over for 1983 projects	$ 2,893,000		2,893,000
		$12,512,336		$11,412,336
	New activities (as of B/F meeting of Feb. 9th)	$ -0-		
	a. Museum & History Center	$ -0-	Preparation of agreement with History Center developers (March-May)	$ 1,100,000
	b. Street Sweeping Program	$ -0-		Use of City general revenue funds formerly earmarked for History Center*
	c. Security Patrol	$ -0-		Use of Pilot Funds**
	TOTAL	$12,512,336		$12,512,336

* (up to $25,000/year for two years)
** ($70,000/year)

YEAR	ACTIVITY	ORIGINAL RECOMMENDATION (JANUARY 4)	WORK SCHEDULE	RECOMMENDATION BY BUDGET & FINANCE COMMITTEE (FEBRUARY 23, 1982)
1983	Replacement Housing	$1,000,000	Implement specific projects in 1983, in accordance with approved Replacement Housing Plan.	
	Waterfront - Old Sacramento	5,599,528	Construct Phase I and portion of Phase II, Spring 1983.	
	Handicapped access for Old Sacramento	435,000	Prepare an agreement with City to construct improvements, Spring 1983.	Same as January 4th
	Carryover for 1984 projects	73,312		
		$7,107,890		
	Commercial rehabilitation loan program	None	Implement program in 1983.	
1984	Replacement Housing	$1,000,000	Implement specific projects in 1984, in accordance with approved Replacement Housing Plan.	
	"U" Garage	400,000	Preparation of plans and specifications in 1984.	Same as January 4th
	Carryover for 1985 projects	2,830,814		
		$4,230,814		
	Possible new major hotel and office complex	None	Assumed completed in 1984.	Tax increments generated by this specific project used to service bond. Bond proceeds to be loaned to developer for acquisition of land. *

* Estimated bond issue of $6 million from project tax increments.

YEAR	ACTIVITY	ORIGINAL RECOMMENDATION (JANUARY 4)	WORK SCHEDULE	RECOMMENDATION BY BUDGET & FINANCE COMMITTEE (FEBRUARY 23, 1982)
1985	Replacement Housing	$5,000,000	Implement specific projects in accordance with approved Replacement Housing Plan.	
	Construction of "U" Garage	2,300,000		Same as January 4th
	Carryover for 1986 projects	317,791		
		$7,617,791		
1986	Replacement Housing	3,500,000	Implement specific projects in accordance with approved Replacement Housing Plan.	Same as January 4th
	Carryover for 1987 projects	1,304,749		
		$4,804,749		

EXHIBIT III

A. Debt Service (see attachment)

1. $574,610 (1982)

- Project Area 3 (repayment of Tax Increment Bonds)	$ 392,672
- Project Area 4 (repayment of Tax Increment Bonds)	$ 181,938
	$ 574,610

2. $379,430 (1982)

- Project Area 3 (repayment of Capitol Mall Extension)	$ 185,530
- Project Area 4 (repayment of Old Sacto. Parking Garage)	$ 193,900
	$ 379,430

B. Garage Art Work

The following garages are included in the determination of 3% art work:

- Liberty House Garage 3% x $2,000,000 (local share)	= $ 60,000
- Weinstocks Garage 3% x $4,606,870 =	= $138,206
- Garage "P" 3% x $4,800,000	= $144,000
Total possible use	= $342,206
Estimated to be used	= $300,000

C. Memorial Auditoruim

The Redevelopment Agency Plan for Project 8 as amended include the Memorial Auditoruim in its boundaries as indicated on the attached map.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

ANNUAL BUDGET

DEPARTMENT NON-DEPARTMENTAL	ACTIVITY DEBT SERVICE REDEVELOPMENT BOND AND NOTE INTEREST PAYMENTS AND PRINCIPAL ADJUSTMENTS		
ITEM	Amended final 1981 Budget	Preliminary 1982 Budget	Final Budget 1982
EMPLOYEE SERVICES			
OTHER SERVICES AND SUPPLIES	4,745,066	2,085,761	
EQUIPMENT			
OPERATING TOTAL	4,745,066	2,085,761	
DISTRIBUTED OVERHEAD	-0-	-0-	
REQUIRED FUNDING	4,745,066	2,085,761	

SOURCE OF FUNDS

Tax Increment	$ 448,814	$ 574,610
Urban Renewal	4.296,252	1,511,151
	$4,745,066	$2,085,761

PROGRAM INFORMATION

Tax Increment Bonds

$2,800,000 in Project 3 Tax Increment Bonds were issued in 1963 to fund construction of public facilities and site improvements in the project. The bonds are all due and payable in 1993. All tax increments produced by the project are pledged to bond servicing. Any annual tax increments that exceed interest payments on the bonds are used to purchase and retire outstanding bonds.

Lease Revenue Bonds

$2,700,000 in Lease Revenue Bonds were issued in 1977 to furnish permanent financing for the Old Sacramento South Parking Garage. The City makes the $18[illegible],938 bond payments and the Agency fully reimburses the City from Project 4 tax increments. Surplus increments are not pledged to bond retirement and are available to meet other costs of the project.

Project Notes

The $1,415,000 in Project 3 note scheduled to be issued in December 1981, will be used to pay off note maturing in December 1981.

BUDGET HIGHLIGHTS

Debt service for 1982 is expected to decrease by a net of $2,659,305, due to the following factors: total interest is down $154,868 as the amount of outstanding bonds and notes decreases. Bond principal repayment increases by $135,563 (supplied by Project 3 tax increments pledged to bond repayment), and Project Note retirement decrease by $2,640,000, owing to reduced financing for Project 3 notes and closeout of Project 4. Federal financial closeout does not affect tax increments.

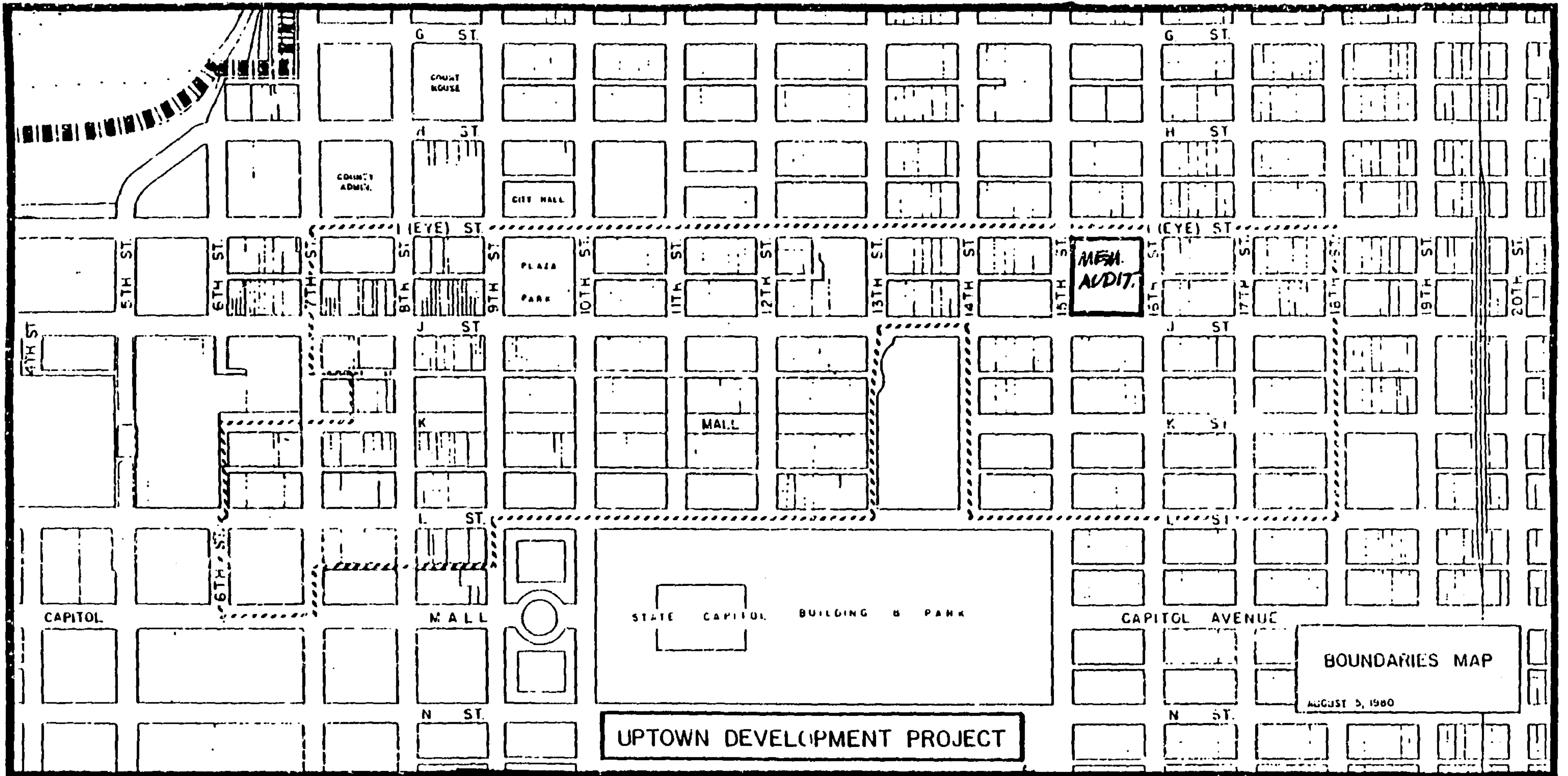
SUMMARY

	Amended Final 1981	Preliminary 1982	Final 1982
Operating Requirements	$4,745,066	$2,085,761	
Number of Positions	--	--	
% of Total Agency Budget			
Operating Requirements	16.39%	7.01%	
Positions	--	--	

(3

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
REDEVELOPMENT AGENCY
Debt Service Data

	Original Issue	Outstanding at 12/31/81	FY of Last Pmnt.	Source of Funding	1981 Budget Principal	1981 Budget Interest	1981 Budget Total	1982 Budget Principal	1982 Budget Interest	1982 Budget Total	Chg. in Bgt. Req. 1981 vs 1982 Inc/(Dec)
REDEVELOPMENT BONDS											
Project 3	$ 2,800,000	$ 1,954,000	1993	Tax Increments	$ 172,000	$ 82,914	$ 254,914	$ 314,000	$ 78,672	$ 392,672	$ 137,758
Project 4	2,700,000	2,538,563	2005	Lease Revenue/ Tax Increments	51,437	142,463	193,900	45,000	136,938	181,938	(11,962)
Sub-Total	$ 5,500,000	$ 4,492,563			$ 223,437	$225,377	$ 448,814	$ 359,000	$215,610	$ 574,610	$ 125,796
PROJECT NOTES											
Project 3	(1981) $ 1,415,000	$ 1,415,000	1982	Federal Urban Renewal	$1,530,000	$114,515	$1,644,515	$1,415,000	$ 96,151	$1,511,151	$ (133,364)
Project 4	-0-	-0-	1981	Federal Urban Renewal	2,525,000	126,737	2,651,737	-0-	-0-	-0-	(2,651,737)
Sub-Total	$ 1,415,000	$ 1,415,000			$4,055,000	$241,252	$4,296,252	$1,415,000	$ 96,151	$1,511,151	$ (2,785,101)
TOTAL REDEVELOPMENT	$ 6,915,000	$ 5,907,563			$4,278,437	$466,629	$4,745,066	$1,774,000	$311,761	$2,065,761	$ (2,659,305)


UPTOWN DEVELOPMENT PROJECT
BOUNDARIES MAP
AUGUST 5, 1980
G ST.
H ST.
(EYE) ST
J ST
K ST
L ST.
N ST.
CAPITOL MALL
CAPITOL AVENUE
MALL
4TH ST
5TH ST.
6TH ST.
7TH ST.
8TH ST.
9TH ST.
10TH ST.
11TH ST.
12TH ST.
13TH ST.
14TH ST.
15TH ST.
16TH ST.
17TH ST.
18TH ST.
19TH ST.
20TH ST.
COURT HOUSE
COUNTY ADMIN.
CITY HALL
PLAZA PARK
STATE CAPITOL BUILDING & PARK
MECH. AUDIT.