

TAB 2

POINT PAPER

AUDIT OPTIONS

Issue: In presenting the item on consideration of the severance agreement and general release for the CRA director at your meeting on July 20, 2009, the City Attorney and Special Counsel Susan Churuti indicated that they would bring back for your audit options for your consideration.

REMEDIAL MEASURES TO DATE

1. The City Commission has stepped in as the Community Redevelopment Authority board and is exercising those powers directly pursuant to §163.35, Florida Statutes
2. The City Commission has appointed a CRA advisory board to advise it in exercising those powers
3. The City Commission has increased oversight by the elected officials, City Attorney, and City Clerk by these measures
4. The City Commission has hired Special Counsel Susan Churuti for a compliance audit, and a partial compliance audit has been completed, indicating areas of concern regarding compliance with the Florida Constitution and Statutes, City ordinances and the CRA plan that if proven would be problematic for the City
5. A severance agreement and general release has been achieved with the former CRA Director, and steps have begun for an interim employee to be assigned to these duties and a replacement made under new and restructured job responsibilities; debriefing of the interim administrator may be appropriate.

AUDIT OPTIONS TO BE CONSIDERED

OPTIONAL REMEDIAL MEASURES	Statutory Cite	Notes	Completed/ Complying Y/N
1. Reference of criminal activity alleged in affidavit of James Tial to appropriate authority			Y
2. Clarification of which properties are within the community redevelopment area for compliance with provisions of §163.346, Florida Statutes - Notice to Taxing Authorities			
a. Reference to Manatee County Property Appraiser			Y
b. Coordination of map changes by the Property Appraiser's office and/or the surveyor hired to create initial maps in 1984 and amendments in 1987, 1988 and 1996, if necessary			
c. Adoption of new resolutions and/or ordinances to remediate any ambiguities as to which properties are within the district, if necessary			
d. Make refunds and corrections adding taxes back three years, if appropriate, to taxing authorities levying taxes			
3. Undertake and complete Due Diligence Checklist in Areas of Creation, CRA Operation and Issuance of bonds/Debt by having City Clerk locate documents required and City Attorney and/or special counsel review them for statutory compliance			

<u>CREATION</u>	<u>Statutory Cite</u>	<u>Notes</u>	<u>Completed/ Complying Y/N</u>
Notice to Taxing Authorities	\$163.346, Florida Statutes	15 days before creation to ALL taxing authorities regarding finding of necessity, creation of CRA or debt issuance, adoption of plan, selecting board	
Finding of Necessity	\$163.355, Florida Statutes	Must be supported by "data and analysis" that "slum" or "blighted area" exist; see §163.340(7) and (8) for definitions of "slum area" and "blighted area"	
If Home Rule County, County Consent to delegate CRA power	\$163.410, Florida Statutes	County shall grant in whole or in part or deny (amended § 2006-307, §8) within 120 days of request; request shall be deemed granted unless period is extended in writing by mutual consent; provision for requests for additional information	
Adoption of Resolution Creating CRA	\$163.356, Florida Statutes	Resolution must make required findings of slum or blight as defined in §163.340; must designate area appropriate for redevelopment	
Designation of CRA Board	\$163.357, Florida Statutes (Governing Body as CRA) \$163.356, Florida Statutes (Separate CRA Body)	Governing Body must appoint itself by Resolution	
Approval of CRA Plan by local planning agency	\$163.360(4), Florida Statutes	Must be finished before approval of Plan; Local planning agency has 60 days to comment	
Adoption of CRA Plan	\$163.360, Florida Statutes	Requirements of Plan in §163.362;	

<u>CREATION</u>	<u>Statutory Cite</u>	<u>Notes</u>	<u>Completed/ Complying</u> Y/N
(public hearing; plan submitted to taxing authorities in advance)		must have a time certain for completion of all redevelopment (30/40 years); projected costs and other requirements; if "open land", special findings must be made under §163.360(8); findings generally under (7) additional provisions for governing body has not adopted prior to June 7, 2007 Ch. 2006-307, §4	
Enactment of Trust Fund Ordinance	§163.387, Florida Statutes	Requires Notice to Taxing Authorities; must be done as an ordinance; can only be enacted after governing body has approved a redevelopment plan. If no adopted by June 7, 2006, limitation on contributions from taxing authority (Ch. 2006-307, §7)	

CRA OPERATION	<u>Statutory Cite</u>	<u>Notes</u>	<u>Completed/ Complying Y/N</u>
Annual appropriation of CRA revenues	\$163.387(6)(7), Florida Statutes	Moneys not appropriated on last day of fiscal year of the CRA "shall" be returned to the taxing authorities if appropriated to a project, project must be completed within 3 years of appropriation	
Annual Audit of trust fund	\$163.387(8), Florida Statutes	Consult with local government auditor to confirm that its audit satisfies this requirement, "to be prepared by an independent certified public accountant or firm; shall provide by registered mail to each taxing authority	
Certain taxing authorities exempt from TIF	\$163.387(2)(c), Florida Statutes	School Boards exempt; Special districts can request exemption under \$163.387(2)(d)	
Expenditure limitations	\$163.387(6), Florida Statutes	Trust Fund proceeds may only be spent on projects listed therein "directly related to financing or refinancing of redevelopment in a (redevelopment area) pursuant to" the Plan; Relocation may take place within or outside of the community redevelopment area, Ch. 2006-307, §7	

CRA OPERATION	<u>Statutory Cite</u>	<u>Notes</u>	<u>Completed/ Complying Y/N</u>
Modification of Community Redevelopment Plans	§163.361, Florida Statutes	Must hold public hearing with advance public notice in general circulation newspaper; expansion of area requires compliance with notice and required findings as if they were newly created areas; additional procedures if modification of plan or boundaries after October 1, Ch 2006-§ 5	
Disposal of property	§163.380, Florida Statutes	Must comply with special disposal provisions; 30-day advertisement in general circulation newspaper of disposition. Any disposal of property acquired by eminent domain must be disposed of subject to limitations of section 73.013	

<u>ISSUANCE OF BOND DEBT</u>			<u>Completed/</u> <u>Complying</u> <u>Y/N</u>
	Bonds can be issued by CRA or the hosting local government	\$163.385(1)(a), Florida Statutes	Limited to financing "the undertaking of any community redevelopment under this part" – If Bonds not issued by CRA, should provide mechanism for TIF to get transferred to pay debt service
	Maturity Limits for Bonds	\$163.385(1)(a), Florida Statutes	Maturity for Bonds limited to 30 years after the end of the fiscal year in which TIF was first deposited into trust fund OR 30 years after the plan was amended, but in no event longer than 60 years after initial plan was adopted; Bond maturity limited to 40 years after Plan adoption for CRA's created after 7/1/02 (no extensions for amendments)
	Bonds may not mature later than expiration of the Plan	\$163.385(1)(a), Florida Statutes	Check Plan carefully for expiration date as required under \$163.362
	Bond anticipation notes – 5 year maturity limit	\$163.385(1)(b), Florida Statutes	5-year limitation includes renewals
4.	Review expenditures in light of Florida Constitution, Article I, Section 3: "No revenue of the state or any political subdivision of the state or agency thereof shall ever be taken from the treasury directly or indirectly in aid of any church, sect or religious denomination or in aid of any sectarian institution"		
a.	Known expenditures		
(1)	St. Andrews AME Church		
(2)	Bible Baptist Church		

	ISSUANCE OF BOND DEBT		Completed/ Complying Y/N
(3	First Baptist Church of Palmetto		
5.	Review expenditures to determine if payments were made outside of the community development area in violation of §163.387(6)		
6.	Locate and review tax abatement agreement with Albertson's for legality		
7.	Review vendor contracts for legality		
a.	Spot audit		
b.	Complete audit		
8.	Review grants for legality		
9.	Review and digest for City Commission all existing outstanding CRA agreements, other than vendor contracts and grant agreements		
10.	Identify and audit ten largest cumulative recipients of public funds in CRA program for criminal or ethics laws violations		
11.	Identify and audit expenditures over \$5,000 for compliance with adopted community redevelopment agency plan		
12.	Identify and audit grant expenditures over \$5,000 for compliance with federal and state laws and plan and program requirements		

	<u>ISSUANCE OF BOND DEBT</u>		<u>Completed/ Complying Y/N</u>
13.	Identify and audit all expenditures to non-profit organizations for compliance with all federal and state laws, and plan and program requirements.		
14.	Audit minutes of CRA meetings for board member compliance with Commission on Ethics laws, such as voting conflicts on Spot audit		
a.	Spot audit		
b.	Complete audit		

In addition, training opportunities for elected officials, appointed board members and staff should be appropriately explored.

As of Friday, August 7, \$6,386.50 has been expended of the \$10,000.00 budget under the contract with Special Counsel Susan Churuti, leaving a remaining budget of \$3,613.50.