

## MEMORANDUM

November 12, 2008

To: Jenny Liaw, Cindy Yan

Cc: Karen Garrett, David Nelson

From: Kuda Wekwete, Carolyn Labutta

Subject: Errata - October 30, 2008 Preserve (Atlas Tract) Fiscal Impact Analysis

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Pursuant to the City of Stockton's (the "City") request, David Taussig and Associates, Inc. ("DTA") has prepared this errata memorandum to be inserted into Section VI ("Funding Sources to Mitigate Fiscal Deficit") of the proposed Atlas Tract FIA.

### A. DESCRIPTION OF FUNDING SOURCES

This FIA has concluded that the Project generates a net fiscal surplus to the City at build-out under all four scenarios, based on the City's approved fiscal impact methodology. The FIA has also identified the potential for a net fiscal deficit to occur during the early years of the project. This situation is due to certain city services being provided at a level of service that exceeds early year demand. As indicated in this report, the Project will generate an overall net fiscal surplus to the City at build out under all four scenarios. However, due to the high level of fire and police protection costs required in the early years of the Project development, a net fiscal deficit is anticipated to occur before sufficient Project revenues are generated to offset such costs. An overall net fiscal surplus related to Scenario 1 is projected to commence in fiscal 2012-2013, therefore Table 7 below only identifies the annual deficit anticipated to occur during the first three years of development (2009-2012).

As Objective 5.1 of the City's FIA Principles and Objectives requires that all negative fiscal impacts of a development project be mitigated, including any interim deficits that occur during the early years of a project's development, Spanos has evaluated a number of alternative financing mechanisms that would provide a safety net to alleviate any fiscal shortfalls resulting from the Project, should they occur. It is Spanos' intent to enter into an agreement with the City pursuant to Objective 5.1 to identify the appropriate financing mechanisms that would be used to mitigate any fiscal shortfalls related to the Project that might occur.

While the maintenance costs of those public facilities cited in Section II of this Report under the heading “Public Infrastructure,” are expected to be directly funded by the City’s General Fund, all other public infrastructure maintenance costs are assumed to be captured by alternative revenue sources. These sources could include any of the following:

- Homeowner’s Association
- Community Facilities District
- Special Assessment District
- Landscaping and Lighting District
- Maintenance Annuity Funds
- Fiscal Shortfall Fees
- Developer Advances.

It is anticipated that one or more of these financing mechanisms will be utilized to provide the annual funding of certain public infrastructure maintenance costs throughout the life of the Project. However, it is also envisioned that selected financing mechanisms will be available to provide additional funding to cover any short-term deficits should they materialize.

~~Except for those facilities cited in Section II under the heading “Public Infrastructure”, all other public infrastructure maintenance costs are assumed to be captured by a Homeowner’s Association, Community Facilities District, Assessment District or Landscaping and Lighting District, each of which is more fully described in the Public Facilities Financing Plan provided under separate cover. It is anticipated that one or more of these financing mechanisms will be utilized to provide for the annual financing of such other public infrastructure maintenance costs at build-out. Furthermore, it is envisioned that a selected financing mechanism will contain the required capacity to cover any short term deficits identified in the tables below should they materialize. The City and Spanos will have future discussions regarding the appropriate funding mechanisms required to cover these costs.~~

## **B. PROPOSED MECHANISMS TO FINANCE ANY POTENTIAL FISCAL IMPACTS**

### **I. Community Facilities District**

The Mello-Roos Community Facilities Act of 1982 authorizes local municipalities to create a special district called a Community Facilities District (“CFD”), and the levy of Special Taxes by the CFD to finance both the construction of public facilities and the provision of public services. These Special Taxes are levied solely on parcels located within the CFD, and may pay for (i) debt service on bonds issued to finance facilities, (ii) the direct construction of facilities on a pay-as-you-go basis, and (iii) the financing of certain types of public services, including street maintenance, police and fire operations, park, road, landscape and flood control maintenance, library and recreational services, school facilities maintenance, and hazardous waste cleanup.

## **II. Special Assessment District**

A Special Assessment District (“AD”) can be established by a local municipality for the purpose of funding the construction of new public improvements and the maintenance of certain public improvements within the AD. Property within an AD must receive “special benefit” from any facilities and/or services financed by the district. Services typically funded by an AD that has issued bonds are those necessary to maintain the specific facilities actually funded by the bonds.

The Benefit Assessment Act of 1982 provides more flexibility in providing public services, as road, drainage, flood control and street lighting maintenance services can be funded under this Act, whether or not the improvements themselves are financed through the AD. Similarly, Section 50078 of the State Government Code permits the formation of an AD to fund the operations and maintenance of fire protection facilities, as well as the purchase of fire suppression equipment. Traditionally, facilities or services of general benefit to a community, such as schools, fire stations and parks, have not been eligible for AD financing.

## **III. Landscape and Lighting District**

The Landscaping and Lighting Act of 1972 authorizes local municipalities to establish a special type of AD and impose assessments on benefited property through a Landscaping and Lighting District (“LLD”). An LLD can fund the installation, construction and maintenance of landscaping, statues, fountains and ornamental structures, lighting facilities including traffic signals, improvements of grading, curbs, gutters and sidewalks, water and drainage facilities, parks, recreational improvements, land acquisition for park, recreational or open space purposes, and the maintenance or servicing of the foregoing improvements. The assessments may be used to pay directly for installation, construction or maintenance of eligible improvements, or may be used to make debt service payments on bonds issued to cover installation and construction costs.

## **IV. Homeowners Association**

A Homeowners' Association (“HOA”) is a privately operated organization that may be established by residential property owners to manage and maintain property within a development project(s). An HOA can collect fees from property owners to offset certain expenses incurred within a project, such as road, lighting and recreational facilities and equipment maintenance, recreational programs, and security and landscaping services.

## **V. Maintenance Annuity Funds**

A Maintenance Annuity Fund (“MAF”) is a one-time deposit made by a developer, and is determined based on the projected annual fiscal deficit identified at buildout in a project’s FIA. The deposit amount is negotiated between the City and the developer, and calculated as an equivalent one-time deposit based on the projected annual fiscal impacts after buildout, utilizing appropriate assumptions for the discount rates.

Generally, the one-time payment is collected as a condition of building permit issuance, and is used by a municipality to offset maintenance and services costs.

#### **VI. Fiscal Shortfall Fees**

Similar to an MAF, a Fiscal Shortfall Fee is a one-time deposit paid by a developer to mitigate fiscal impacts of a project. However, Fiscal Shortfall Fees are based on negative fiscal impacts during interim years prior to buildout of a project, rather than shortfalls that may occur after buildout. This one-time fee may be calculated as a “per unit” amount, and can be levied on property at the time of building permit issuance to either directly fund the services required in the year collected, or to reimburse a developer who advanced funds for those services, if the project is sold to merchant builders.

#### **VII. Developer Advances**

A Developer Advance is a direct contribution to the City from a developer to mitigate fiscal impacts of a project both prior to and after buildout. The City may utilize the contribution to offset maintenance and services costs incurred, as identified in the FIA for the project.

### **C. PREFERRED MECHANISM TO FINANCE ANY POTENTIAL FISCAL IMPACTS**

The City and Spanos will engage in future discussions regarding the appropriate funding mechanisms required to cover any annual fiscal shortfalls that may be experienced by the City’s General Fund as a result of the Project. At this point, Spanos is seriously considering the formation of a CFD on the Project as a funding mechanism that could finance both the cost of public facilities construction and any potential net fiscal impacts that might occur prior to Project buildout.

Under this scenario, Spanos would cooperate with the City in the establishment of a CFD on the Project with authority to levy Special Taxes that would be sufficient to cover the cost of public facilities and the highest levels of annual fiscal shortfalls that might occur. In deciding the amount of facilities to be initially funded through the CFD, Spanos and the City would reserve a sufficient portion of the annual CFD special taxes to cover any potential fiscal shortfalls to the City’s General Fund that might result from the Project. These funds would be levied to mitigate any shortfalls until the Project became fiscally neutral or generated a fiscal surplus to the General Fund. At that point, Spanos would request that all future special tax levies be released by the City and utilized to fund additional Project facilities, as there would no longer be a fiscal shortfall in need of mitigation.

### **B.D. ESTIMATE OF ANNUAL BURDENS BY LAND USE**