County of Los Angeles
CHIEF EXECUTIVE OFFICE
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Chief Executive Officer

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July 17, 2012

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

The Honorable Board of Commissioners
Community Development Commission
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors and Commissioners:

LA ALAMEDA SHOPPING CENTER PROJECT AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CHIEF EXECUTIVE OFFICE AND THE COMMUNITY DEVELOPMENT COMMISSION (SUPERVISORIAL DISTRICTS 1 AND 2) (3 VOTES)

SUBJECT

This Board letter recommends an Amendment of the Memorandum of Understanding between the Chief Executive Office and the Community Development Commission of the County of Los Angeles for the La Alameda Shopping Center Project. The proposed amendments reflect changes in the Project's Section 108 Loan obligation payments and guarantees to the U.S. Department of Housing and Urban Development. Portions of the Loan are currently obligated from the First Supervisorial District Community Development Block Grant and the First Supervisorial District Capital Project Funds. As a result of the recent redistricting boundary changes, the Project is now located in the Second Supervisorial District. Therefore, it is recommended that the amended Memorandum of Understanding reflect that the portions of the Section 108 Loan, currently obligated by the First Supervisorial District, become the future obligations of the General Fund and the Second Supervisorial District Community Development Block Grant Funds, as detailed in this Board letter.

JOINT RECOMMENDATION OF THE CHIEF EXECUTIVE OFFICER OF THE COUNTY AND THE EXECUTIVE DIRECTOR OF THE COMMUNITY DEVELOPMENT COMMISSION THAT THE BOARD OF SUPERVISORS OF THE COUNTY AND THE BOARD OF COMMISSIONERS OF THE COMMUNITY DEVELOPMENT COMMISSION:

1. Approve and instruct the Chairman of the Board of Supervisors of the County and the Community Development Commission to sign Amendment No.1 of the Memorandum of Understanding between the Chief Executive Office and the Community Development Commission for the La Alameda Shopping Center Project to reflect the change of the Section 108 Loan obligations from the First Supervisorial District Community Development Block Grant and First Supervisorial District Capital Project Funds to the Second Supervisorial District Community Development Block Grant and the County General Fund.

2. Instruct the Auditor-Controller, upon the full repayment of the Section 108 Loan in 2025, or sooner, to return the $2 million in the Debt Service Reserve Investment Account, or any portion thereof not used for loan repayment, to the County General Fund.

3. Authorize the Chief Executive Officer of the County and the Executive Director of the Community Development Commission to execute any and all future amendments of any kind to the Memorandum of Understanding, as may be necessary, between the County and the Executive Director of the Community Development Commission.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On August 16, 2005, the Board of Supervisors of the County and the Board of Commissioners of the Community Development Commission (CDC) approved the County's commitment to: (1) provide economic development gap financing to La Alameda, LLC (Developer), for the La Alameda Shopping Center Project (Project) from the proceeds of a U.S Department of Housing and Urban Development (HUD) Section 108 Loan in the amount of $8,250,000 and an Economic Development Initiative grant in the amount of $5,750,000; (2) abide by the requirements set forth by HUD to make all payments of principal and interest on the Section 108 Loan; (3) provide Section 108 Loan security to HUD in the form of a pledge of the County's Community Development Block Grant (CDBG) Funds allocated to the First Supervisorial District and a debt reserve of $2,000,000 from the County to be held as collateral in the Debt Service Reserve Investment Account with U.S. Bank, the HUD approved Collateral Agent; and (4) make payments of the principal and interest from CDBG Funds allocated to the First Supervisorial District and site-specific property and sales tax revenues derived from the Project, subject to annual appropriation by the Board.

The Board of Supervisors of the County and the Board of Commissioners of CDC further instructed that the Community Development Commission (CDC) and the Chief Executive Office (CEO) enter into a Memorandum of Understanding (MOU) to establish the protocols to administer and monitor the performance of the incentive program for the Project. The MOU was executed by the County, CEO, and CDC on May 14, 2008.

The MOU stipulates that the County would:

1. Deposit $2,000,000 to the Debt Service Reserve Investment Account as collateral to HUD for the Section 108 Loan payment from the First Supervisorial District Capital Project Funds;

2. Pledge future CDBG Funds allocated to the First Supervisorial District for repayment of the Section 108 Loan; and

3. Make the annual principal and interest payments for the Section 108 Loan from the First Supervisorial District CDBG Funds (50 percent) and from the site-specific real property and sales tax revenues derived from the Project (50 percent).

As a result of the redistricting boundary changes approved by the Board of Supervisors of the County on September 27, 2011, the Project is no longer located in the First Supervisorial District and is now located in the Second Supervisorial District. Therefore, the Board of Supervisors' of the County and the Board of Commissioners' of CDC approval of Amendment No. 1 of the MOU is necessary to execute the following provisions: 1) the County General Fund will assume the $2,000,000 collateral obligation for the Section 108 Loan; 2) the $2,000,000 in the Debt Service Reserve Investment Account will be returned to the County General Fund, upon the full payment of the Section 108 Loan in 2025, or sooner; 3) the Second Supervisorial District will pledge its future CDBG Funds towards the Section 108 Loan repayment; and 4) the annual principal and interest payments for the Section 108 Loan will be made from the Second Supervisorial District's CDBG Funds (50 percent) and the site-specific real property and sales tax revenues (50 percent) for the remaining balance of the loan payment.

FISCAL IMPACT/FINANCING

The outstanding principal and interest on the Section 108 Loan is currently $8.9 million. The Section 108 Loan is scheduled to be retired in 2025. Payments on the Section 108 Loan have been made consistent with the criteria approved by the Board of Supervisors of the County and the Board of Commissioners of CDC on August 16, 2005. Property and sales tax increment are projected to be sufficient to cover the County's share of the 50 percent semi-annual loan payments and, to date, First Supervisorial District CDBG funding has been sufficient to meet the CDBG 50 percent portion of the HUD Section 108 Loan payment. The CDC One-Year Action Plan, approved by the Board of Commissioners of CDC on May 22, 2012, allocated a share of the Second Supervisorial District's CDBG funding to meet the Section 108 Loan payment obligation for the Project.

Additionally, as a condition of the Section 108 Loan, HUD required that $2,000,000 be placed as collateral in a Debt Service Reserve Investment Account. This requirement was met by a commitment of $2,000,000 from the First Supervisorial District's Capital Project Funds. However, as a result of County Redistricting, the Project site is no longer in the First Supervisorial District and is now within the Second Supervisorial District. Therefore, this

Board letter is recommending that the CDBG repayment obligation and Debt Service Reserve requirement shift from the First Supervisorial District to the Second Supervisorial District and the County General Fund. To reflect the change in the Debt Service requirement, $2,000,000 has been placed in a County General Fund budget unit to restore the funds committed by the First Supervisorial District for Fiscal Year 2012-13.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On August 16, 2005, the Board of Supervisors of the County and the Board of Commissioners of CDC approved the financing terms of the Project; instructed the CEO to enter into an MOU with CDC to establish the necessary protocols to administer and monitor the performance of the incentive program for the project; and authorized the Executive Director of CDC to execute the Development Agreement with the Developer that would establish the terms and conditions for the Project. The Board of Supervisors of the County and the Board of Commissioners of CDC did not provide authority for the CEO and CDC to execute amendments to the MOU.

As stated above, the current MOU stipulates that the HUD Section 108 Loan obligation would be made annually from the First Supervisorial District's CDBG Funds (50 percent) and from site-specific property and sales tax revenues (50 percent). The MOU also stated $2,000,000 in First Supervisorial District Capital Project Funds would be guaranteed as collateral in a Debt Service Reserve Investment Account and that future First Supervisorial District CDBG Funds would be obligated towards payment of the Section 108 Loan, if necessary.

Based on the change in Supervisorial District boundaries, as a result of the County's Redistricting, the CEO and CDC is recommending that the Board of Supervisors' of the County and the Board of Commissioners' of CDC approve Amendment No.1 of the MOU to reflect the change of the Section 108 Loan and collateral obligations from the First Supervisorial District to the Second Supervisorial District and the County General Fund, as described above in the Purpose and Justification Section of this Board letter.

Although the Development Agreement between CDC and the Developer, La Alameda LLC, executed on November 20, 2005, indicates that the CDBG portion of the Section 108 Loan would come from the First Supervisorial District's CDBG Funds, an amendment to the Development Agreement is not required. If approved by the Board of Supervisors of the County and the Board of Commissioners of CDC, the recommended actions contained in this Board letter are sufficient to appropriately shift the CDBG funding obligation from the First Supervisorial District to the Second Supervisorial District. Further, as previously stated, the CDC One-Year Action Plan, approved by the Board of Commissioners of CDC on May 22, 2012, allocated a share of the Second Supervisorial District's CDBG funding to meet the Section 108 Loan payment obligation for the Project. The Developer and CDC will continue to operate under the Development Agreement as amended by the First and Second Amendments to the Development Agreement.

The amended MOU has been reviewed and approved as to form by County Counsel for the County and County Counsel for CDC.

ENVIRONMENTAL DOCUMENTATION

These actions are exempt from the National Environmental Policy Act pursuant to Title 24, Code of Federal Regulations, Part 58, Section 34 (a)(3) because they involve administrative activities that will not have a physical impact on or result in any physical changes to the environment. The actions are not subject to the provisions of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines 15060(c)(3) and 15378, because they are not defined as a project under CEQA and do not have the potential for causing a significant effect on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on current services for the Project area as a result of approval of any of the recommended actions.

CONCLUSION

Upon execution by the Board of Supervisors of the County and the Board of Commissioners of CDC, please send a copy of the adopted Board letter and copy of the executed Amendment No. 1 of the MOU to the Executive Director of CDC and one copy to the CEO.

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

SEAN ROGAN
Executive Director
Community Development Commission

WTF:SR:RLR:DSP
RRA:MJS:acn

Attachment (1)

c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Treasurer and Tax Collector
La Alameda, LLC

AMENDMENT NO. 1

AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE COMMUNITY DEVELOPMENT COMMISSION OF THE COUNTY OF LOS ANGELES AND THE COUNTY OF LOS ANGELES FOR THE LA ALAMEDA SHOPPING CENTER PROJECT

THIS AMENDMENT NO. 1 to the Memorandum of Understanding ("Amendment" or "Amendment No. 1") is made and entered into this _____ day of _____, 2012, by and between the County of Los Angeles, hereinafter referred to as the "County", and the Community Development Commission of the County of Los Angeles, hereinafter referred to as the "Commission".

WHEREAS, that certain Memorandum of Understanding dated as of May 14, 2008, by and between the Commission and the County ("Memorandum") established the necessary protocols to administer and monitor the performance of the incentive financing under the U.S. Department of Housing and Urban Development ("HUD"), Section 108 Loan Guarantee Program and the Economic Development Incentive ("EDI") for the La Alameda Shopping Center Project ("Project");

WHEREAS, in accordance with the terms of the Memorandum and the Incentive Financing Program Documents, the County pledged the share of future Community Development Block Grant ("CDBG") Funds, which were specifically allocated to the First Supervisorial District of the County for the repayment of 50 percent of the Incentive Financing (said pledged funds being referred to herein as the "CDBG Funds"); and the County deposited $2,000,000 in the Debt Service Reserve Investment Account as collateral ("Sinking Fund Account") with U.S. Bank ("Custodial Agent") from the First Supervisorial District's share of Capital Project Funds, as a reserve account for the repayment of the Incentive Financing;

WHEREAS, in accordance with the terms of the Memorandum, the County proceeded to make the principal and interest payments for the Incentive Financing as follows: 50 percent from the First Supervisorial District CDBG Funds and 50 percent from site-specific real property and sales tax increment revenues ("Tax Increment Revenues") derived from the Project;

WHEREAS, in accordance with the terms of that certain Memorandum, the Project was located in the First Supervisorial District;

WHEREAS, as a result of the Redistricting of the County's Supervisorial Districts, as approved by the County Board of Supervisors on September 27, 2011, new Supervisorial District boundaries were created that resulted in the Project being located in the Second Supervisorial District;

WHEREAS, as a result of the Redistricting, the First Supervisorial District will not be obligated to the conditions of the Memorandum as set forth on May 14, 2008, as of July 1, 2012;

WHEREAS, the Second Supervisorial District has agreed to pledge future Second Supervisorial District CDBG Funds for repayment of the HUD Section 108 Loan, and agreed to make 50 percent of the annual principal and interest payments for the Incentive Financing from the Second Supervisorial District's CDBG Funds; and

WHEREAS, the County has agreed to commit General Funds financing for the $2,000,000 deposit in the Debt Service Reserve Investment Account as collateral ("Sinking Fund Account") with U.S. Bank ("Custodial Agent") and restore $2,000,000 to the First Supervisorial District;

NOW, THEREFORE, the parties agree as follows:

Except as amended herein, all terms and conditions of the Memorandum shall remain in full force and effect. The parties hereby agree to amend the Memorandum as follows:

Page 2, Paragraph 1. Replace the paragraph as follows:

"WHEREAS, in accordance with the terms of the Incentive Financing Program documents, the County has pledged the share of future Community Development Block Grant Funds, which are specifically allocated to the Second Supervisorial District of the County for the repayment of the Incentive Financing (said pledged funds being referred to herein as the "CDBG Funds"); and the County has deposited $2,000,000 in the Debt Service Reserve Investment Account as collateral ("Sinking Fund Account") with the U.S. Bank ("Custodial Agent") from the County General Fund, as a reserve account for the repayment of the Incentive Financing;"

Page 2, Paragraph 2. Replace the paragraph as follows:

"WHEREAS, the County has elected to make the principal and/or interest payments for the Incentive Financing as follows: 50 percent from the Second Supervisorial District CDBG Funds and 50 percent from site-specific real property and sales tax increment revenues ("Tax Increment Revenues") derived from the Project, in accordance with the terms of this Memorandum;"

Page 4, Paragraph 3. Replace the paragraph as follows:

"Sinking Fund. The $2,000,000 debt service reserve deposit provided by the County as collateral to the U.S. Department of Housing and Urban Development ("HUD") for the Section 108 Loan payment. Using County General Funds, the County deposited such funds in the Debt Service Reserve Investment Account with U.S. Bank. The $2,000,000 is 125 percent of the cumulative shortfall between the projected site-specific property and sales tax increment, and the cumulative Section 108 Loan payments over the life of the loan. The interest earned on the Sinking Fund, at the County's option, may be transferred to the County or used to offset the County's loan payments when there is a shortfall of site-specific property and sales tax increment. Upon release of the balance of the Sinking Fund held in the Debt Service Investment Account held by the U.S. Bank, the Auditor-Controller shall deposit the full amount of the released funds, including interest, to the County General Fund."

Page 10, Section D.2.a. Replace Attachment #5 with the "Amended Attachment 5" attached to this Amended MOU, and replace the paragraph as follows:

a. "first, 50 percent from Second Supervisorial District CDBG Funds and 50 percent from Tax Increment Revenues."

Page 10, Section D.2.b. Delete the following: " ... provided, however, that in the event that there are excess Tax Increment Revenues available during the term of the Incentive Financing, the County will reimburse the First Supervisorial District for any Released Sinking Funds that were used for the payment of principal and/or interest for the Incentive Financing." Replace the paragraph as follows:

b. "second, if the Tax Increment Revenues are insufficient, then, from any funds that have been released (interest earned on the Sinking Fund Account) to the County from the Sinking Fund Account in accordance with Incentive Financing Program Documents ("Released Sinking Funds"). Pursuant to Part II, Paragraph 15(e)(v) of the Contract for Loan Guarantee Assistance, the Sinking Fund Account may be reduced to an amount equal to 1.25 times the shortfall of the projected La Alameda site-specific sales and tax revenues pledged for the Section 108 Loan repayment."

Page 10, Section D.2.c, and d. Replace all references to "First Supervisorial District" with "Second Supervisorial District" and replace the paragraphs as follows:

c. "third, if the Released Sinking Funds are insufficient, then, from any additional Second Supervisorial District CDBG Funds; provided, however, that in the event that there are ever excess Tax Increment Revenues available during the term of the Incentive Financing, the County will credit the Second Supervisorial District for any additional CDBG Funds that were used for the payment of principal and/or interest for the Incentive Financing by increasing the amount of the Tax Increment Revenues, and decreasing the amount of CDBG Funds, for future payment(s) under the Incentive Financing; and

d. fourth, in the event that the Second Supervisorial District's subsequent annual allocation of CDBG Funds is reduced by 75 percent or more from its allocation in Fiscal Year 2004-05 and the Tax Increment Revenues are insufficient, then, from the Developer pursuant to the terms of the Development Agreement and/or from the Guarantors pursuant to the Guaranty to the extent there is any shortfall in the amounts necessary for any payment(s) under the Incentive Financing."

Page 11, Section D. 3 and 4. Replace all references to "First Supervisorial District" with "Second Supervisorial District" and replace the paragraphs as follows:

3. "Permanent Payment Due Dates. The Commission shall provide to the CEO, and a copy to the Treasurer and Tax Collector ("TTC") Cash Management Division, the HUD permanent loan payment schedule and a copy of each semi-annual payment invoice upon receipt from HUD, including wiring instructions and payment due dates. TTC Cash Management Division shall initiate the wire transfer by 12 noon, at least one (1) working day prior to HUD's payment due date, the County's 50 percent share of principal and/or interest payments (per Section D.2. above). In the event that there are insufficient Tax Increment revenues for the County's 50 percent share of the payment, the CEO shall immediately notify the Commission within 24 hours of receipt of the aforementioned payment invoice. The CEO and the Commission shall work together to identify the available source of funds pursuant to Section D.2.(b)(c)(d) of the Memorandum. The payments shall be deposited by the payment due date in the Guaranty Loan Fund Repayment Account with the Commission's Custodial Agent, or as instructed by the Commission.

The Commission shall wire transfer by 12 noon, at least two (2) working days prior to HUD's payment due date, the Second Supervisorial District's 50 percent share of principal and/or interest payments using Second Supervisorial District's CDBG Funds. The payments shall be deposited in the Guaranty Loan Fund Repayment Account with the Commission's Custodial Agent.

Upon the Commission's Custodial Agent receiving the full amount of the payments due to HUD, the Commission's Custodial Agent shall wire transfer the payments to HUD's Fiscal Agent as instructed by the Commission.

4. Allocation of CDBG Funds. The Commission will be responsible for allocating Second Supervisorial District CDBG Funds and funds from the Released Sinking Funds Account for the payment of principal and/or interest for the Incentive Financing, and beginning August 2006, will direct the deposit of the Sinking Funds with the Custodial Agent."

Page 12, Section D.5.b. Replace "sixty (60) days" with "one hundred twenty (120) days" in referencing the tax increment reconciliation prepared by the CEO and replace the paragraph as follows:

b. "Within one hundred twenty (120) days after the end of Year 1, the CEO will be responsible for coordinating and preparing a report of actual Tax Increment Revenues for Year 1 and reconciling such Revenues to the amount paid by the General Fund to the Custodial Agent. Tax increment shall be calculated using Fiscal Year 2003-04 as the base year. The reconciling difference shall be adjusted against the amount due to the Custodial Agent in Year 2 as follows:"

Page 12, Section D.5.d. and 6. Replace reference to "First Supervisorial District" with "Second Supervisorial District" and replace the paragraph as follows:

d. "To the extent that Tax Increment Revenues exceed the payments made by the County General Fund, the CEO shall reimburse the Second Supervisorial District, as appropriate, pursuant to Section D.2.(c) of this Memorandum. The County General Fund shall retain any excess Tax Increment Revenues that are not required to satisfy provisions of Section D.2.(c) of the Memorandum."

6. "Profit Participation Payments. Pursuant to Section II (G)(207) of the Development Agreement, on April 1 of each year until the Covenant Release Date, the Commission, the CEO, and the Auditor-Controller shall concurrently review audited financial statements, prepared by an accounting firm reasonably acceptable to the Commission, for Excess Profits from the immediately preceding calendar year. The Developer shall pay on April 1 to the Commission an amount equal to 50 percent of the Excess Profits. All Excess Profits received by the Commission shall be deposited with the Commission's Custodial Agent in the Guaranty Loan Funds Repayment Account, to be used for principal and/or interest payments on the Incentive Financing. The Excess Profits used for payment on the Incentive Financing will reduce by equal amounts, the payment amount due from the County's tax increment revenues and Second Supervisorial District CDBG Funds."

G. ADDITIONAL AGREEMENTS

The parties agree that nothing in this Amendment No. 1 is intended to modify the obligations of the Commission under the Development Agreement, and in the event of any conflict between the terms of this Amendment and the Development Agreement, the terms of the Development Agreement, as amended by the First and Second Amendments to the Development Agreement, will control.

IN WITNESS WHEREOF, the governing bodies of the parties hereto have authorized this Amendment No. 1 and have caused this Amendment No. 1 to be executed by their respective authorized representatives as of the day, month and year first above written.

BOARD OF SUPERVISORS
OF THE COUNTY OF LOS ANGELES

By: _____
Zev Yaroslavsky
Chairman, Board of Supervisors

APPROVED AS TO FORM:

John F. Krattli
County Counsel

By: _____
Deputy

COMMUNITY DEVELOPMENT
COMMISSION OF THE COUNTY OF
LOS ANGELES

By: _____
Zev Yaroslavsky
Chairman, Board of Commission

APPROVED AS TO FORM:

John F. Krattli
County Counsel

By: _____
Deputy

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AMENDED ATTACHMENT #5

Available Funds for Section 108 Loan Repayment under Permanent Financing

Loan Payment

Profit Participation Funds

Profit Participation funds are the excess profits above 10.50% Preferred Developer Return; 50% of the excess profits are paid by the Developer to the Commission (see Section G(207) of the Development Agreement). Use these funds when available to make the loan payment to reduce the amount of money provided by Second Supervisorial District and County to make the balance of the payment per Section B (3)(d) of MOU.

Example: $785,000 loan payment due
- $100,000 Profit Participation funds available
$685,000 balance due on loan payment.

Use funds from Second Supervisorial District and County in the order listed below. If the First source of funds is not sufficient to make the payment, use the next source of funds to complete the loan payment.

Second Supervisorial District
50% of Loan Payment

1st Source of Funds
Second Supervisorial District CDBG Funds

2nd Source of Funds
Developer pays gap if CDBG Funds are insufficient due to a 75% reduction in Second Supervisorial District CDBG funding based on Fiscal Year 2004-05 allocation.

County
50% of Loan Payment

1st Source of Funds
Site Specific Sales and Property Tax

2nd Source of Funds
Interest Earned on $2,000,000 Sinking Fund

(County General Fund collateral for loan)

3rd Source of Funds
Second Supervisorial District CDBG funds County repays Second Supervisorial District once Sales & Property tax funds are available.

4th Source of Funds
Developer pays gap if CDBG Funds are insufficient due to a 75% reduction in Second Supervisorial District CDBG funding based on Fiscal Year 2004-05 allocation.

Note: Please refer to the August 16, 2005 Board letter approving the Development Agreement (DA) for authority to use the aforementioned funding sources for Section 108 loan repayment, and the July 17, 2012 Board letter approving an amendment to the MOU for authority to shift First Supervisorial District CDBG obligation to Second Supervisorial District.