County of Los Angeles
CHIEF EXECUTIVE OFFICE
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WILLIAM T FUJIOKA
Chief Executive Officer

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
11 JANUARY 26, 2010
Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

January 26, 2010

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

Dear Supervisors:

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
RECOVERY ZONE DESIGNATION,
APPROVAL OF PRELIMINARY PLAN OF ISSUANCE
(ALL DISTRICTS AFFECTED) (3 VOTES)

SUBJECT

The recommended actions designate the County as a Recovery Zone under the Federal Bond Program and approve a preliminary plan for the County's Recovery Zone bond allocations.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt a resolution designating Los Angeles County as a Recovery Zone pursuant to the American Recovery and Reinvestment Act of 2009.

2. Approve a preliminary Plan of Issuance, under which the County:

   a. states its intent to utilize Recovery Zone Economic Development Bonds to finance the Martin Luther King Jr. Multi-Service Ambulatory Care Project;

   b. states its intent to fully utilize its Recovery Zone Facility Bond and Qualified Energy Conservation Bond allocations on qualified projects; and

c. commits to provide the California Debt Limit Allocation Committee with final project allocations for Recovery Zone Facility Bonds and Qualified Energy Conservation Bonds by August 15, 2010.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The recommended actions will allow the County to maintain eligibility for allocations of Recovery Zone Bonds and Qualified Energy Conservation Bonds available under the American Recovery and Reinvestment Act of 2009 by designating the County as a Recovery Zone, pursuant to federal requirements, and approval of a preliminary Plan of Issuance required by the State Treasurer, which states the County's intent to utilize its allocations of Recovery Zone Bonds and Qualified Energy Conservation Bonds and outlines a plan for the determination of appropriate project allocations.

Background

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), a $787 billion stimulus bill, which included provisions for Build America Bonds, Qualified Energy Conservation Bonds, and Recovery Zone Bonds. The intent of ARRA and these financing programs is to promote economic growth through the provision of unique financing incentives for state and local capital improvements.

Build America Bonds

Build America Bonds (BABs) are taxable bonds that can be issued by state or local governments to finance capital expenditures and certain issuance costs related to governmental, public purpose projects. Under ARRA, the Federal government has agreed to provide issuers of BABs a Federal subsidy of 35 percent of the interest payments to investors. There is no limit on the amount of BABs that may be issued. The BABs, however, must be issued no later than December 31, 2010.

Qualified Energy Conservation Bonds

Qualified Energy Conservation Bonds (ECBs) are taxable bonds that can be issued by state or local governments to finance public capital improvements that will reduce energy consumption by 20 percent in governmental buildings or expand the use of renewable energy sources and other alternatives to fossil fuel technologies. ECBs may also be issued to finance green community programs, support research and public education programs, and fund private projects that reduce energy consumption or the use of fossil fuels. The County is authorized to issue $11,705,393 in ECBs for use on qualified private sector projects and $27,312,584 in ECBs for public, governmental projects.

Under ARRA, investors in the ECBs are to receive a tax credit, which would reduce the net interest cost to the County, as issuer. To date, a viable market for the tax credit, and by extension, the ECBs, has failed to materialize. As a result, we have been unable to determine the amount of the tax credit and the potential benefit to the County. It is unclear, at this time, if this component of the ARRA program will move forward.

Recovery Zone Bonds

The ARRA also authorizes the issuance of two types of bonds for projects in Recovery Zones: Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds. Both types of bonds may be used, subject to certain restrictions, to finance capital expenditures that are made within designated "Recovery Zones", which are defined under ARRA as any area designated by a jurisdiction as experiencing significant poverty, unemployment, rates of home foreclosures or general distress, economic distress related to military base closures, and any area currently designated as an Empowerment Zone or Renewal Community. Under ARRA, cities and counties with populations exceeding 100,000 that have experienced economic distress during the current recession generally received allocations for the Recovery Zone Bonds.

Economic Development Bonds

The Economic Development Bonds are similar to the BABs in that they are taxable bonds and provide a Federal subsidy of bond interest payments. They are also subject to the same private use restrictions applicable for tax-exempt bonds. Economic Development Bonds may be issued to finance expenditures made for purposes of promoting development or other economic activity in a Recovery Zone, including costs related to property, public infrastructure, public facility construction, or job training and education programs. The bonds are also subject to Davis-Bacon federal prevailing wage requirements. The Federal interest subsidy is set at 45 percent and the bonds must also be issued no later than December 31, 2010. The County received an allocation of $180,989,000 in Economic Development Bond authorization.

Facility Bonds

Facility Bonds are tax-exempt, private activity bonds that allow local governments receiving allocations to finance private, depreciable property related to new facility construction or the upgrade of existing facilities in a Recovery Zone. The County received an allocation of $271,484,000 in Facility Bond authorization, which must be issued no later than December 31, 2010.

Similar to Industrial Development Bonds, Facility Bonds are a conduit financing mechanism that allows private borrowers to access lower interest rates that are generally available in the tax-exempt financing market. The Facility Bonds do not offer any Federal subsidy of interest payments. The County would issue the Facility Bonds and loan the proceeds to a private or non-governmental entity for purposes of capital improvements within the Recovery Zone. The County would not be required to pledge any funds or guarantee repayment of the Facility Bonds. The private or non-governmental entity receiving the proceeds from the bonds would be solely responsible for repayment of the bonds. As such, the creditworthiness and liquidity of the private borrower is critical to repayment of the bonds.

Recommended policies and criteria to ensure adequate credit protection for the County are being developed with the Treasurer and Tax Collector and Auditor-Controller and will be presented to your Board for consideration with other policies, procedures, and guidelines for the implementation of the ARRA financing program in the next month.

Designation of Recovery Zone

In order to utilize either type of Recovery Zone Bonds, the State Treasurer's California Debt Limit Allocation Committee (CDLAC) requires that your Board designate a Recovery Zone for the County by January 31, 2010. Pursuant to Internal Revenue Service Notice 2009-50 Section 5.06 concerning the Recovery Zone Bond Program, the County may make a designation of a recovery zone "in any reasonable manner as it shall determine in good faith in its discretion". Given the discretion afforded your Board and based upon our analysis of U.S. Census, Housing and Urban Development, and other socio-economic data, we are recommending that your Board designate the entire County as a Recovery Zone.

Our analysis entailed an examination of each census tract to determine if it met defined criteria for the Recovery Zone: poverty, foreclosure, unemployment, and general distress. If the census tract met the threshold for significance in one or more of these factors, it was coded as Recovery Zone. The threshold for each of the criteria is indicated below:

- **Poverty:** Measures of the percentage of the population below 100 percent of poverty level and the percentage below 200 percent of poverty level were used. Census tracts with at least 18 percent of residents below the poverty threshold for 2008 ($21,834 for a family of four), and those with greater than 40 percent of residents below the 200 percent of the poverty threshold ($43,668 for a family of four), were classified as directly meeting the Recovery Zone definition.

- **Foreclosure**: U.S. Housing and Urban Development (HUD) data measuring risk of foreclosure was analyzed. This data uses various factors, including loan, income and housing data to determine how susceptible an area is to suffer from foreclosures. HUD's Neighborhood Stabilization Program defines a score of 18 or higher (out of 20) as "high risk". A Foreclosure Risk score of 17 or higher was used for the Recovery Zone definition for general distress, just below HUD's definition of high risk of foreclosure, in order to exclude the areas, which have experienced worsening conditions more recently than available data.

- **Unemployment**: The threshold for significant unemployment levels was having either a minimum level for 2008 unemployment of eight percent or an increase in unemployment during that year of at least two percent.

- **General Distress**: Census tracts with more than half of residents in 2008 in households with less than 80 percent of median County household income ($49,680) defined the threshold.

Based on our analysis, over 83 percent of all County census tracts have directly experienced significant levels of poverty, unemployment, home foreclosures, or general distress. The remaining areas of the County are all within the average job commute time of 31 minutes for workers in Los Angeles County. Attachment A displays a chart of the areas of the County which directly meet our classification of Recovery Zone. Areas which do not meet the Recovery Zone classification themselves are within ten miles of areas that do, when forest/wilderness areas, which are largely unpopulated and development-restricted (shown in green on the chart), are excluded.

Given the proximity of these remaining areas to the areas that strictly meet the Recovery Zone criteria and the high probability that economic conditions in both areas have a reciprocal impact on each other, we are recommending that all areas in the County be included in the designation of the County's Recovery Zone.

<u>Preliminary Plan of Issuance</u>

In addition to the designation of a Recovery Zone, CDLAC is also requiring jurisdictions with Recovery Zone and/or ECB allocations to submit a preliminary Plan of Issuance by January 31, 2010 in order to maintain eligibility to access Recovery Zone and ECB allocations. The intent of the preliminary Plan of Issuance is to provide assurance to CDLAC that jurisdictions will be able to fully utilize their allocations and entails a list of proposed projects, project costs, and schedules. Jurisdictions that CDLAC deems unable to fully utilize their allocations may be at risk of forfeiting their allocation to CDLAC for redistribution to other jurisdictions within the State.

As we have previously reported to your Board, we plan on financing the design and construction of the Martin Luther King Jr. Multi-Service Ambulatory Care Center (MLK MACC) through the County's allocation of Recovery Zone Economic Development Bonds. We have also received project proposals for over $1.1 billion in Recovery Zone Facility Bonds. While these projects meet the basic Facility Bond criteria, they have yet to be reviewed or prioritized with your Board and far exceed the County's allocation of $271.5 million.

With respect to the ECB allocation, we have identified approximately $30.0 million in potential governmental, renewable energy projects and nearly $700 million in potential private sector energy related projects. As is the case with the Facility Bond projects, these potential ECB projects have yet to be reviewed or prioritized with your Board and exceed the County's allocations of $27.3 million for governmental projects and $11.7 million in private sector projects.

We have advised CDLAC that the requests for County ARRA funding far exceeds the amount of bonds allocated to the County, as well as the need to fully assess the potential projects with your Board before committing to final project allocations. Under CDLAC's program guidelines, your Board is not required to commit to final project designations, allocations, and financing structured until August 15, 2010. The deadline for actual issuance of the Recovery Zone Bonds or ECBs is December 31, 2010.

Based on the excessive amount of project funding requests relative to the County's allocations and in recognition of the need to fully review and prioritize the Facility Bond and ECB project allocations with your Board, we are recommending approval of a preliminary Plan of Issuance that:

- States the County's intent to allocate the Recovery Zone Economic Development Bonds to the MLK MACC Project;

- states the County's intent, at this time, to fully utilize its Recovery Zone Facility Bond and ECB allocations; and

- commits the County to a final determination of project allocations for the Recovery Zone Facility Bonds and ECBs no later than CDLAC's deadline of August 15, 2010.

The recommended timetable will allow this Office adequate time to review and prioritize project allocations with your Board and comfortably meet CDLAC's August 15, 2010 deadline and the bond issuance deadline of December 31, 2010. It will also allow this Office to work with the Treasurer and Tax Collector, and Auditor-Controller to develop policies, procedures, and guidelines for the management and implementation of the County's ARRA financing program. Such policies and guidelines will be focused on safeguarding the County's fiscal position, while optimizing the program's benefits to the County. We will be returning to your Board with such policies and guidelines in the next month.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the County to meet the goal of Operational Effectiveness (Goal 1, Strategy 1). The recommended actions will help achieve this goal by promoting Fiscal Sustainability through sound, prudent, and transparent short and long-range fiscal policies that help ensure maintenance of critical, high priority County public services despite cyclical economic conditions.

FISCAL IMPACT/FINANCING

There is no fiscal impact associated with the designation of the County's Recovery Zone or the approval of the preliminary Plan of Issuance. The recommended actions do not commit your Board to any specific project allocation or expenditure, nor do they represent an approval by your Board for a future bond issue. Final project allocations are not required until August 15, 2010 and issuance of the ARRA bonds is not required until December 31, 2010. We will work with your Board to develop appropriate project allocations and with the Treasurer and Tax Collector to develop optimal financing recommendations prior to the required, respective deadlines.

It should be noted that a future issuance of BABs, Recovery Zone Economic Development Bonds, and ECBs by the County will increase the County debt load and increase debt service costs for the term of the bonds. To the extent that these bond types are used to finance County capital projects that would have otherwise used conventional tax-exempt financing, the County is expected to realize lower debt service costs resulting from the Federal interest subsidies these bonds offer.

Any Recovery Zone Facility Bonds the County issues will not increase the County's debt load or repayment of any additional debt service. Although the Facility Bonds would be issued under the County's name, the bonds would be solely an obligation of the private borrower.

Fiscal impacts relating to the costs of the program implementation will be addressed when we return to your Board with recommended Recovery Zone program policies and procedures in the next month.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

County Counsel has reviewed and approved the attached Resolution.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The current actions will have no impact on current services.

CONCLUSION

Upon approval, please return one adopted copy of this letter to the Chief Executive Office, Capital Projects Division.

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SK:DJT
PB:zu

Attachments

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

K:2010Word/FAM/Capital Projects/Recovery Zone Final 012610

Attachment A

LA County Recovery Zone (RZ)

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, CALIFORNIA, DESIGNATING LOS ANGELES COUNTY AS A RECOVERY ZONE PURSUANT TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

WHEREAS, Section 1401 of the American Recovery and Reinvestment Act of 2009, (the "Act"), added Sections 1400U-1 through 1400U-3 to the Internal Revenue Code of 1986, as amended (the "Code"), authorizing states, counties and large municipalities to issue Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds; and

WHEREAS, the County of Los Angeles, California (the "County") has received an allocation of Recovery Zone Economic Development Bonds in the amount of $180,989,000 and an allocation of Recovery Zone Facility Bonds in the amount of $271,484,000 pursuant to the Act; and

WHEREAS, the Recovery Zone Economic Development Bonds may be used to finance expenditures for "qualified economic development purposes," as defined in Section 1400U-2, for the purpose of promoting development or other economic activity in a recovery zone ("Recovery Zone"); and

WHEREAS, the Recovery Zone Facility Bonds may be used to finance "recovery zone property," as defined in Section 1400U-3, within a designated Recovery Zone; and

WHEREAS, Section 1400U-1 authorizes the County to designate a Recovery Zone for the purpose of issuing Recovery Zone Economic Development Bonds under Section 1400U-2 and for the purpose of issuing Recovery Zone Facility Bonds under Section 1400U-3; and

WHEREAS, a Recovery Zone, as defined in Section 1400U-1, means (1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosure, or general distress, (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1900, and (3) any area for which a designation as an empowerment zone or renewal community is in effect (collectively, "Distress Conditions"); and

WHEREAS, the County evaluated the following available data with respect to census tracts (or citywide data where census tract data was unavailable) to identify census tracts within the geographic boundaries of the County that suffer from one or more Distress Conditions: (1) significant poverty levels, (2) risk of foreclosure, (3) number of residents with lower than 80% of the median income in the County, (4) elevated unemployment rates, and (5) significant increases of unemployment rates over time; and

WHEREAS, after a review of the County data, the County identified certain census tracts suffering from Distress Conditions; and

WHEREAS, the County defined the areas appropriate for Recovery Zone designation by giving consideration to average commuting distances from home to work within the County;

WHEREAS, the County concluded that, given general work commuting patterns within the County, areas within a fifteen (15) mile radius of any census tract suffering from Distress Conditions are also impacted by such Distress Conditions.

WHEREAS, based on the census tracts determined to suffer from Distress Conditions and the belief that impacts of the Distress Conditions extend to areas within 15 miles of each such census tract, the area appropriate for Recovery Zone designation comprises the entire geographic area of the County.

NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Designation of County as Recovery Zone. That upon the findings and determinations of Distress Conditions throughout the County, this County Board hereby designates the entire geographic area of the County, as shown on the map attached as Exhibit A, as a Recovery Zone within the meaning of the Act.

SECTION 2. Designation Reasonable. That the County Board hereby declares that such designation has been made in good faith and in a reasonable manner.

SECTION 3. Effective Date. That this Resolution shall take effect immediately upon its passage.

SECTION 4. Administrative Actions. That the officers of the County are hereby authorized and directed to take all actions as may be required in furtherance of the designation of the recovery zone.

The foregoing resolution was, on the 26th day of January, 2010, adopted by the Board of Supervisors of the County of Los Angeles and *ex officio* the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

SACHI A. HAMAI,
Executive Officer-Clerk of the Board of
Supervisors of the County of Los Angeles

By: ______________________
Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN,
Acting County Counsel

By: ______________________
Principal Deputy County Counsel

EXHIBIT A

LA County Recovery Zone (RZ)