



# County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA  
Chief Executive Officer

November 30, 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:

## ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

10 November 30, 2010

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

**ADOPT A RESOLUTION TO TRANSFER A PORTION OF THE LOS ANGELES  
COUNTY RECOVERY ZONE FACILITY BOND ALLOCATION TO CALIFORNIA  
ENTERPRISE DEVELOPMENT AUTHORITY AND DELEGATE AUTHORITY TO THE  
CHIEF EXECUTIVE OFFICE TO EXECUTE AN INDEMNIFICATION AGREEMENT  
BETWEEN LOWE ENTERPRISES DEVELOPMENT CORPORATION AND THE  
COUNTY OF LOS ANGELES  
(ALL DISTRICTS) (3 VOTES)**

### SUBJECT

Adopt a resolution to transfer a portion of County Recovery Zone Facility Bond allocation to the California Enterprise Development Authority for the financing of project costs for the benefit of the Compton Downtown Economic Development Corporation and/or a related or successor entity and delegate authority to the Chief Executive Officer to execute an indemnification agreement between Lowe Enterprises Real Estate Group, the developer of the project for the benefit of Compton Downtown Economic Development Corporation, and the County of Los Angeles in which Lowe Enterprises Real Estate Group indemnifies and holds the County harmless against any claim or loss which may arise from the transfer of its \$46,000,000 Recovery Zone Facility Bond allocation for the project.

### **IT IS RECOMMENDED THAT YOUR BOARD:**

1. Adopt a resolution to transfer \$46,000,000 of the County of Los Angeles Recovery Zone Facility Bond allocation to the California Enterprise Development Authority for the purpose of financing the design, development, construction, installation and equipping of facilities for the benefit of Compton Downtown

Economic Development Corporation and/or a related or successor entity and other matters relating thereto specified therein.

2. Delegate authority to the Chief Executive Officer to execute an indemnification agreement between Lowe Enterprises Real Estate Group, the developer of the project for the benefit of Compton Downtown Economic Development Corporation, and the County of Los Angeles in which Lowe Enterprises Real Estate Group indemnifies and holds the County harmless against any claim or loss which may arise from the transfer of its \$46,000,000 Recovery Zone Facility Bond allocation for the project.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Approval of the above recommendations will permit the transfer of Recovery Zone Facility Bond (RZFB) allocation to the California Enterprise Development Authority (CEDA), a joint exercise of powers authority, for the purpose of financing a transit-oriented development in Compton (Project) to be undertaken by the Compton Downtown Economic Development Corporation (Corporation). RZFBs are tax-exempt, private activity bonds authorized under the American Recovery and Reinvestment Act of 2009 (Recovery Act) that can be used to finance private, depreciable property within a Recovery Zone. The County received an allocation of \$271,484,000 in Facility Bond authorization, which under federal law must be issued no later than December 31, 2010.

On January 26, 2010, your Board designated the entire geographic area of the County as a Recovery Zone. The Corporation applied for \$46,000,000 in County RZFB allocation to finance the Project in Compton, which consists of a 30,000 square foot Senior Activity Center, 20,000 square foot Community Center and a 600 stall parking structure to serve an adjacent transit center. On August 10, 2010, your Board reserved \$46,000,000 in RZFB allocation in its Revised Plan of Issuance to the California Debt Limit Allocation Committee and awarded an allocation to the Corporation for the Project subject to receipt of credit enhancement and other documentation required under the County's RZFB program.

The Corporation was not able to meet the County's RZFB program requirements within the specified timeframe and requested that the County transfer the allocation to CEDA to complete the financing for their project. Under Internal Revenue Service guidance regarding Recovery Zone Volume Cap allocations, however, the County is authorized to allocate its RZFB authorization to ultimate beneficiaries in any reasonable manner as it shall determine in good faith in its discretion for use for eligible costs for recovery zone property. We are recommending the transfer of the allocation to CEDA for the benefit of the Corporation for use in financing the Project, along with an indemnification

agreement to be executed by the project developer, Lowe Enterprises Real Estate Group (Lowe) and the County.

#### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

This action supports the County's Strategic Plan Goal of Operational Effectiveness (Goal 1), by promoting fiscal sustainability through the prudent use of Recovery Act bond authorization to facilitate economic activity within the County.

#### **FISCAL IMPACT/FINANCING**

The recommended actions will not result in costs to the County. Expenses incurred by the County to effectuate the transfer will be funded by Lowe.

#### **FACTS AND PROVISIONS/ LEGAL REQUIREMENTS**

Under the indemnification agreement, Lowe acknowledges and agrees that the County shall have no responsibility for (1) the validity or effectiveness of the RZFB transfer, provided the County executes and delivers all documentation reasonably requested by CEDA, or (2) the suitability of the Project for financing with RZFB financing. Lowe agrees and covenants to indemnify and hold harmless the County and its officers, agents, employees, advisors and attorneys against any and all judgments, losses, claims, damages, liabilities and expenses arising out of, or in connection with, the RZFB transfer.

County Counsel has reviewed and approved the resolution and indemnification agreement.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

None.

Honorable Board of Supervisors  
November 30, 2010  
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**CONCLUSION**

Upon approval of the attached resolution, it is requested that the Executive Officer of the Board return one originally executed copy to the Chief Executive Office, Capital Projects Division.

Respectfully submitted,



WILLIAM T FUJOKA  
Chief Executive Officer

WTF:BC:DJT  
SW:PB:zu

**Attachments**

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

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TRANSFERRING \$46,000,000 OF THE COUNTY OF LOS ANGELES RECOVERY ZONE FACILITY BOND ALLOCATION TO THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY FOR THE PURPOSE OF FINANCING THE DESIGN, DEVELOPMENT, CONSTRUCTION, INSTALLATION AND EQUIPPING OF FACILITIES FOR THE BENEFIT OF COMPTON DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION AND/OR A RELATED OR SUCCESSOR ENTITY AND OTHER MATTERS RELATING THERETO HEREIN SPECIFIED**

**WHEREAS**, on January 26, 2010, the Board of Supervisors of the County of Los Angeles, California (the "County") designated the entire geographic area of the County of Los Angeles as a recovery zone pursuant to Section 1400U-1 of the Internal Revenue Code of 1986 (the "Code"); and

**WHEREAS**, the County received \$271,484,000 of recovery zone facility bond volume cap (the "Allocation") under Section 1400U-1(a)(3)(A) of the Code to be used to finance recovery zone property; and

**WHEREAS**, pursuant to a resolution adopted by the Board of Supervisors of the County on August 10, 2010, the County reserved, pursuant to a Revised Plan of Issuance submitted by the County to the California Debt Limit Allocation Committee, an amount equal to \$46,000,000 of the Allocation for the purpose of financing the design, development, construction, installation and equipping of a transit oriented development consisting of three components: (1) a 30,000 square foot Senior Activity Center, (2) a 20,000 square foot Community Center and (3) a 600 stall parking structure to serve the preceding uses and the adjacent Martin Luther King Transit Center and Metro Blue Line to be located on approximately 5.8 acres of land in the city of Compton (the "Compton Project"); and

**WHEREAS**, Section 5.04 of Internal Revenue Service Notice 2009-50 authorizes counties and cities that receive recovery zone facility bond volume cap to allocate such volume cap to ultimate beneficiaries in any reasonable manner as they shall determine in good faith in their discretion for use for eligible costs for recovery zone property; and

**WHEREAS**, Compton Downtown Economic Development Corporation (the "Corporation") has requested that the County provide an allocation of \$46,000,000 in recovery zone facility bond volume cap to facilitate the financing of the Compton Project (the "Project Allocation") and has requested that such Project Allocation be transferred by the County to the California Enterprise Development Authority, a joint exercise of powers entity (the "Authority"), for the purpose of issuing recovery zone facility revenue bonds to finance the Compton Project;

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

**Section 1.** The County hereby transfers \$46,000,000 of its recovery zone facility bond volume cap under Section 1400U-1(a)(3)(A) of the Code to the Authority for the benefit of the Corporation and/or a related or successor entity (collectively, the "Borrower") for use in financing the Compton Project.

**Section 2.** The Authority is hereby authorized to use the allocation transferred to the Authority pursuant to this Resolution to issue recovery zone facility revenue bonds (the "Bonds") under Section 1400U-3 of the Code and to loan the proceeds thereof to the Borrower to finance the costs of the Compton Project.

**Section 3.** The Authority shall give written notice to the County within ten (10) business days of issuance of the Bonds.

**Section 4.** The officers and employees of the County and their authorized deputies and agents are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all certificates and documents which they may deem necessary or advisable in order to effectuate the purposes of this Resolution.

**Section 5.** This Resolution shall take effect from and after its adoption.

The foregoing resolution was, on the 30<sup>th</sup> day of November, 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 the Board so acts.



SACHI A. HAMAI

Executive Officer-Clerk of the Board of  
Supervisors of the County of Los Angeles

By

Lachelle Smithman

APPROVED AS TO FORM  
ANDREA SHERIDAN-ORDIN

By

Ammy D. Pont  
Principal Deputy County Counsel

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_ day of November, 2010, by and between the **LOWE ENTERPRISES REAL ESTATE GROUP**, a corporation organized and existing under the laws of the State of California (the "Developer"), and the **COUNTY OF LOS ANGELES**, a political subdivision of the State of California (the "County").

### Recitals

A. The Developer has requested that the California Enterprise Development Authority (the "Authority") issue one or more series of bonds (the "Bonds") for the purpose of (a) financing the design, development, construction, installation and equipping of a transit oriented development consisting of three components: (1) a 30,000 square foot Senior Activity Center, (2) a 20,000 square foot Community Center and (3) a 600 stall parking structure to serve the preceding uses and the adjacent Martin Luther King Transit Center and Metro Blue Line to be located on approximately 5.8 acres of land in the city of Compton, California (the "Compton Facilities"), (b) paying capitalized interest with respect to the Bonds, (c) the costs of funding a reserve fund for the Bonds and (d) the costs of issuance in connection with the Bonds (collectively, the "Project") for the benefit Compton Downtown Economic Development Corporation (the "Borrower").

B. The Compton Facilities will be leased to the Redevelopment Agency of the City of Compton.

C. In connection with the financing of the Project, the Authority and the Borrower will enter into a loan agreement pursuant to which the Borrower will make loan payments to the Authority.

D. Pursuant to a trust indenture to be entered into by the Authority and a third party trustee (the "Trustee"), the Authority will assign its right to receive the loan payments from the Borrower to the Trustee and issue the Bonds in a total aggregate principal amount not to exceed \$46,000,000.

E. The Developer and the Borrower have requested that the County provide an allocation of \$46,000,000 in recovery zone facility bond volume cap to facilitate the financing of the Project (the "Project Allocation") and have requested that such Project Allocation be transferred by the County to the Authority to issue the Bonds (the "Transfer").

F. As a condition to approving the Transfer, the County has requested that the Developer indemnify and hold the County harmless against any claim or loss which may arise from the Transfer.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## **ARTICLE I**

### **INDEMNIFICATION**

**Section 1.01. No County Responsibility.** The Developer acknowledges and agrees that the County shall have no responsibility for either (a) the validity or effectiveness of the Transfer, provided that the County executes and delivers all documentation reasonably requested by the Authority in connection therewith or (b) the suitability of the Project for financing with recovery zone facility bond financing.

**Section 1.02. Indemnification of the County.** The Developer agrees and covenants to indemnify and hold harmless the County and its officers, agents, employees, advisors and attorneys against any and all judgments, losses, claims, damages, liabilities and expenses arising out of, or in connection with, the Transfer. In any arbitration or litigation initiated by County to enforce this Agreement, if County is the prevailing party the arbitrator or court shall award to County all its reasonable costs and expenses, including without limitation, reasonable attorneys' fees.

**Section 1.03. Assertion of Claims.** In case any claim shall be made or action brought against the County based upon the Transfer for which indemnity may be sought against the Developer, as provided above, the County shall promptly notify the Developer in writing setting forth the particulars of such claim or action and the Developer shall assume the defense thereof, including the retaining of counsel acceptable to the County and the payment of all expenses. The County shall have the right to retain separate counsel in any such action and to participate in the defense thereof but shall bear the fees and expenses of such counsel unless the Developer shall have specifically authorized the retaining of such counsel.

## **ARTICLE II**

### **MISCELLANEOUS**

**Section 2.01. Authority.** Each of the parties hereto represents and warrants to the other party that the individual executing this Agreement on behalf of such party has been duly authorized to execute and deliver this Agreement on behalf of such party.

**Section 2.02. Notices.** All notices and communications hereunder shall be in writing and shall be deemed to be duly given (a) when personally delivered, if personally delivered; (b) three (3) business days after deposit into the U.S. mail, when sent by certified mail, return receipt requested, postage prepaid; (c) upon confirmation of transmission, when sent by facsimile transmission; or (d) one (1) business day after deposit, if deposited with a reputable overnight courier, addressed as follows:

If to the Developer:

Lowe Enterprises Real Estate Group  
11777 San Vicente Blvd., Suite 900



Los Angeles, California 90049  
Attention: Corporate Counsel  
Telephone No.: (310) 820-6661  
Facsimile No.: (310) 820-3302

If to the County:

County of Los Angeles  
713 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012  
Attention: County Administrative Officer  
Telephone No.: (213) 974-1101  
Facsimile No.: (213) 687-7130

or to such other address or facsimile number as any of the above may have furnished to the other party in writing as provided above.

**Section 2.03. Waiver and Amendment.** No provisions of this Agreement shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by all of the parties hereto. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion.

**Section 2.04. Captions.** Captions are used throughout this Agreement for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

**Section 2.05. Severability.** The provisions of this Agreement shall be deemed severable. If any part of this Agreement shall be held unenforceable, the remainder shall remain in full force and effect, and such unenforceable provision shall be reformed so as to give maximum legal effect to the intention of the parties as expressed herein.

**Section 2.06. Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided.

**Section 2.07. Time is of the Essence.** Time is of the essence with respect to each provision of this Agreement; *provided, however*, that with respect to any determination to be made or action to be taken on a date specified in this Agreement, if such date shall fall upon a Saturday, Sunday or holiday observed by federal banks in the State of California, the date for such determination or action shall be extended to the first business day immediately thereafter.

**Section 2.08. Assignment; Binding Effect.** Neither this Agreement nor any right or interest hereunder may be assigned in whole or in part by any party without the prior written consent of the other party hereto. Such consent shall not be unreasonably withheld. Any such attempted assignment without such prior written consent shall be void and of no force and effect.

Notwithstanding the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**Section 2.09. Applicable Law.** This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of the State of California.

**Section 2.10. Facsimile Transmission; Counterparts.** Signatures on this Agreement may be communicated by facsimile transmission and shall be binding upon the parties transmitting the same by facsimile transmission. Counterparts with original signatures shall be provided to the other parties within three (3) days of the applicable transmission; provided, however, that the failure to provide the original counterpart shall have no effect on the validity or the binding nature of this Agreement. If executed in counterparts, the Agreement shall be effective as if simultaneously executed.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

LOWE ENTERPRISES REAL ESTATE  
GROUP

By \_\_\_\_\_

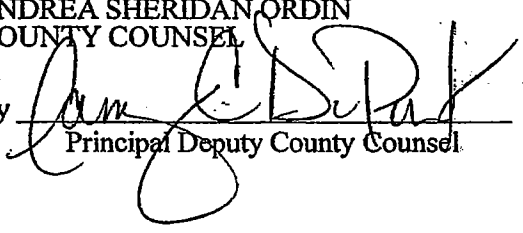
COUNTY OF LOS ANGELES

By \_\_\_\_\_

William T Fujioka  
Chief Executive Officer

APPROVED AS TO FORM:  
ANDREA SHERIDAN ORDIN  
COUNTY COUNSEL

By

  
Principal Deputy County Counsel