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The Honorable Herb J. Wesson, Jr.
Chair, Housing and Community
Economic Development Committee
Los Angeles City Council
200 North Spring Street, Room 430
Los Angeles, CA 90012

Date: 1-08-2009
Submitted in: HCED Committee
Council File No: 08-3430
Item No.: 16
Deputy: Alan Alietti

Re: Report on Motion to Allocate \$2.8 million in CRA/LA General Revenue for MOCA's
Operational Costs (Perry-Garcetti), CF #08-3430

Dear Councilmember Wesson:

Thank you for the opportunity to respond to Council Motion CF #08-3430 (Perry-Garcetti), which requests the Community Redevelopment Agency of the City of Los Angeles (CRA/LA) to report with recommendations for allocating \$2.8 million in CRA/LA General Revenue to pay for operational costs of the Museum of Contemporary Art (MOCA). This report discusses the legal impediments to implementing the Motion, describes its fiscal impacts and proposes alternative solutions to address the underlying desire to support MOCA.

CRA/LA and MOCA

CRA/LA has an abiding interest in the continued survival and success of MOCA. In 1981, CRA/LA and Bunker Hill Associates (consisting of Metropolitan Structures and Cadillac Plaza Associates) entered into a Disposition and Development Agreement (DDA) for the development of the California Plaza development. Pursuant to the terms of the DDA, Bunker Hill Associates constructed the 100,000 square foot art museum on the CRA/LA's land on Grand Avenue for the use of MOCA as a contemporary art museum. This satisfied the developer's "percent for art" requirement. MOCA is the jewel in the crown of redeveloped Bunker Hill.

CRA/LA and MOCA entered into a 99-year ground lease (Lease), pursuant to which CRA/LA gave MOCA the right to use the building (worth \$16 million in 1980), and MOCA agreed to continue to use, operate and maintain on the site a nonprofit museum of contemporary art, of "world class" stature, with a concern for the general public, all as described in the Lease. At the expiration or earlier termination of the lease, MOCA will return the building to CRA/LA (in the words of the Lease) "all so as to compensate Landlord for the benefits given up by Landlord in order to have the museum built."

So long as MOCA is not in default of the Lease, MOCA is permitted to use the building rent-free. By any measure, the cumulative value of CRA/LA's subsidy of MOCA through the rent-free provision runs into many millions of dollars. One conservative way to calculate the current ongoing subsidy is to refer to the liquidated damages provision of the MOCA Lease with CRA/LA. In the event of an uncured default, the Lease requires MOCA to make monthly rental payments of \$150,000 (one-twelfth of \$1,800,000) increased by 5% on each anniversary date of the Lease (Section 2.3). Under this measure, CRA/LA currently provides a subsidy to MOCA of approximately \$440,000 per month, or over \$5 million per year.

Because of CRA/LA's central role in the construction of MOCA's landmark Isozaki-designed Bunker Hill exhibition space and CRA/LA's ongoing subsidy of MOCA's use of the facility, CRA/LA staff has read with increasing alarm news reports of MOCA's deteriorating financial condition. CRA/LA is also deeply concerned about the shut-down of MOCA's Geffen Contemporary exhibition space in Little Tokyo. Just as MOCA's Bunker Hill facility has been a crucial cultural anchor for Bunker Hill, the Geffen Contemporary has played a critical role in the revitalization of CRA/LA's Little Tokyo Redevelopment project area. For these reasons, CRA/LA welcomes the opportunity to work with MOCA on a financial recovery plan that will ensure that the people of Los Angeles continue to reap the benefit of CRA/LA's long-standing and ongoing investment in MOCA.

Legal Constraints on Providing Operating Support

There is nothing in the California Community Redevelopment Law (CRL) that authorizes the use of redevelopment funds to pay the operating costs of a museum or other non-housing operator. The CRL permits a redevelopment agency to spend its funds for redevelopment purposes, principally the elimination of blight and the development of affordable housing. Redevelopment purposes are limited to those uses authorized by the CRL and set forth in California Health and Safety Code Section 33000 et seq., such as land acquisition and related expenses, planning, and other costs and expenses related to rehabilitation or development of property within redevelopment project areas. The fact that the proposed source of funds in the Motion is General Revenue (e.g., ground rent) does not change this fundamental limitation. An opinion of the State Attorney General held that while General Revenue received by a redevelopment agency may be spent in any redevelopment project area, and not just in the redevelopment project from which it originated, it still may be used only for redevelopment purposes.

Impacts to CRA/LA Projects and Operations in South Los Angeles and the Harbor

If the Motion's proposal to allocate \$2.8 million in General Revenue for MOCA operational costs is implemented next year (FY09-10), operations in CRA/LA's South Los Angeles and Harbor Regions would have to be significantly reduced and restricted. Each year, project areas in South Los Angeles and the Harbor require subsidies of CRA/LA General Revenue to sustain their operations. In the current fiscal year (FY08-09), the subsidies amounted to approximately \$7 million. We expect this will be about the same next year (FY09-10).

The two sources of General Revenue that cover those ongoing operating expenses are the two reliable ongoing sources of General Revenue: Bunker Hill (Cal Plaza) ground lease payments (approximately \$3 million), and interest earnings (approximately \$4 million), totaling approximately \$7 million.

Other sources of General Revenue include repayments from project areas that once borrowed General Revenue and now have the resources to repay. This often occurs when project areas issue tax-increment-backed debt. However, the CRA/LA is not anticipating issuing debt for the remainder of this year (FY08-09) or next year (FY09-10) due to the condition of the capital markets. There is currently no market for CRA/LA taxable bonds, and only a restricted market for tax-exempt bonds.

For next year (FY09-10), we anticipate that the only reliable sources of CRA/LA General Revenue will be approximately \$3 million from Bunker Hill ground lease payments and \$4 million from interest earnings, assuming no substantial further decline in those earnings. The full \$7 million would be used to continue subsidizing South Los Angeles and the Harbor. If \$2.8 million were removed from that source, the operations and projects in South Los Angeles and the Harbor would have to be reduced by a corresponding amount.

MOCA's Pending Financial Recovery Plan

We understand that Charles Young, MOCA's new CEO, a special Advisory Committee and members of MOCA's Board of Trustees are in the process of developing a financial recovery plan that is aimed at restoring MOCA's fiscal health. We understand this plan may be completed within the next 30 days. Without such a plan describing how MOCA intends to address its operational and financial challenges, CRA/LA is unable to provide an analysis to the City Council of how the City and CRA/LA's potential additional investment might be utilized and how it may contribute to putting MOCA on a sound fiscal footing.

In a time of declining public resources and increasing economic stress, the CRA/LA has a heightened obligation to its communities to strategically put taxpayer dollars to their highest and best use. Sound underwriting is increasingly important in this economy when funds are desperately needed for a wide variety of catalytic projects that drive economic development in underserved communities. The CRA/LA recommends that any proposal from MOCA regarding the use of public funds be analyzed using our normal underwriting process so that policymakers can make an informed judgment regarding the use of funds for this purpose as compared to other competing demands.

Program Alternatives – Bricks and Mortar

Although the CRA/LA is not authorized to pay for operations, it can fund bricks and mortar. If MOCA intended to build its fiscal capacity by improving its facilities, the CRA/LA would welcome considering that investment. One proposal has been suggested to improve and weatherize portions of the Geffen Contemporary, which is a City-owned facility ground leased to MOCA for one dollar a year in the Little Tokyo Redevelopment project area. There may be other program and funding alternatives worth considering as well.

Program Alternatives – CRA/LA's Art Retention Program

MOCA has responded to a Request for Qualifications (RFQ) issued November 7, 2008 for the Bunker Hill Art Organization Retention. The due date was January 16, 2009. The CRA/LA is currently in the process of evaluating MOCA's submitted materials along with the other seven responses received.

The CRA/LA's Art Retention Program (the "Program") reflects CRA/LA's long-standing commitment to the arts and humanities, in recognition of their significant role in the overall revitalization, stabilization, growth and sustainability of communities. CRA/LA initiated an art organization retention effort in Hollywood in 2006 and, based on the success of that project, has embarked upon a similar program to provide assistance for the North Hollywood, Harbor,

Mid City and Bunker Hill project areas. Most recently, CRA/LA received the James A. Doolittle Leadership in Theatre Ovation Award from LA Stage Alliance and the Hollywood Arts Council's Charlie Award in acknowledgement of these efforts.

CRA/LA is fully cognizant that the recent surge in redevelopment activity in our project areas has put a tremendous amount of upward pressure on the property values and the ability of the arts and cultural organizations to stay in their project areas. More and more property owners are either raising rents or looking for new tenants with greater economic capacity than arts organizations can provide. Further, CRA/LA understands that these organizations have historically been linked to these neighborhoods, are an important part of the community, and patrons attending arts organizations' performances and events provide significant economic benefits to local businesses such as restaurants, cafes, shops and parking garages.

The Program furthers the CRA/LA's objective of attracting and retaining high quality, financially responsible, and community-based arts organizations for our project areas. Pre-qualified organizations that require CRA/LA technical assistance with financing capital improvement projects and facilitating negotiations with developers are provided with assistance for a range of activities including, but not limited to, workshops, interior/exterior improvements, property acquisition/rehabilitation, and construction drawings. Assistance with operations and programming are not eligible under this program.

CRA/LA, through a competitive open RFQ and evaluation process, selects highly productive, quality, financially responsible and community-based arts and cultural providers that demonstrate both a need for facility assistance and an ongoing commitment to the area. The groups selected in the past include a range of arts education programs, theatres, and cultural festival producers. LA Stage Alliance is serving as the lead consultant for the Program as part of its effort to establish the Los Angeles Arts and Business Council.

The Program is staged in three phases over a three-year period in each project area: facility and organizational needs assessment (Phase 1); technical assistance training specifically targeted at retention (Phase 2); and, assistance with identifying suitable new spaces and potential funding for capital improvement projects (Phase 3).

There are currently 22 organizations participating in the CRA/LA's Art Organization Retention Program in Hollywood, Mid City, and North Hollywood listed in Attachment A. We are currently evaluating MOCA's application to the Bunker Hill arts organizations RFQ that was recently received to complete the open and selective RFP process.

Impact to CRA/LA Projects funded by the Land Acquisition Fund

If, notwithstanding the legal impediments described above, the Motion's proposal to use General Revenue for MOCA operational costs was enacted in FY 2008-09, the current \$2.3 million deficit in the Land Acquisition Fund would increase to \$5.1 million.

The CRA/LA's Land Acquisition Fund is the sole repository of all CRA/LA's unallocated General Revenue. General Revenue from each of CRA/LA's 32 project areas is aggregated into one fund, for use in project areas that have no other source of funding for catalytic projects. When the City Council adjusted the CRA/LA's FY08-09 budget mid-year, the Council

identified ten projects for funding from the CRA/LA's Land Acquisition Fund (CF #08-2721), of which the first five have been or are anticipated to be shortly approved for funding¹.

LAND ACQUISITION PROJECTS APPROVED FOR FUNDING

Vermont Manchester, CD8	\$4,000,000
Jefferson Boulevard, CD10	\$3,000,000
1 st & Mission, CD 14	\$2,500,000
1 st & Boyle, CD 14	\$1,700,000
3700 W. Martin Luther King Blvd / Marlton, CD 8	\$1,000,000
6800 South Avalon, CD 9	\$650,000
Valley Plaza, CD 2	\$3,000,000
La Opinion Building / 1901 Santee, CD 9	\$650,000
Watts Plan Amendment, CD 15	\$900,000
Wilmington Plan Amendment, CD 15	<u>\$485,000</u>
Total	\$17,885,000

Funding of \$17.855 million would be required for all of these projects. However, the Council adjusted the revenues in the Land Acquisition Fund, leaving only \$15.585 million. Therefore, the Land Acquisition Fund is currently in deficit by \$2.3 million.

If an additional \$2.8 million were removed from General Revenue this fiscal year (FY2008-09), the deficit for these projects would increase to \$5.1 million.

Funding Alternatives

As noted above, an allocation of General Revenue in this fiscal year (FY08-09) would increase the existing Land Acquisition Fund deficit and an allocation of General Revenue in next fiscal year (FY09-10) would have severe operational impacts on the South Los Angeles and Harbor Regions. Fortunately, if an appropriate program of bricks and mortar improvements could be worked out with MOCA, CRA/LA's Downtown project areas have several sources of available funding.

Bunker Hill (where MOCA's Grand Avenue facility is located) recently received approximately \$1.7 million in tax increment revenues beyond what was budgeted for this year (FY08-09). In addition, Bunker Hill currently has a balance of approximately \$5 million in uncommitted tax increment, for total available tax increment resources of \$6.7 million. We also project new tax increment receipts of approximately \$5 million next year (FY09-10) for Bunker Hill.

Little Tokyo (where the Geffen is located) currently has a balance of \$3 million in uncommitted tax increment. We project additional tax increment receipts of approximately \$1.5 million next year (FY09-10) for Little Tokyo.

In addition, several downtown project areas have borrowed General Revenue in the past, most notably City Center and Central Industrial. While these two project areas received no tax increment during the five years they were tied up in litigation with the County, the CRA/LA

¹ These projects are in addition to \$28.595 million already allocated to CD 1 (2 projects), CD 8 (4 projects), CD 9 (3 projects), CD 10 (3 projects) and CD 15 (1 project).

funded their operations. The accumulated amount to be repaid to the CRA/LA's General Revenue Fund from the City Center and Central Industrial project areas is over \$6 million.

City Center's current budget is \$56 million, of which \$5.8 million is uncommitted tax increment. Central Industrial's current budget is \$34 million, of which \$7 million is uncommitted tax increment.

If City Center and/or Central Industrial were to repay all or a portion of what they owe to the CRA/LA's General Revenue Fund, those funds could be used without impacting projects proposed for funding from the Land Acquisition Fund or the operations of South Los Angeles and the Harbor Regions.

Conclusion

The CRA/LA fully supports MOCA as one of the cultural anchors of Downtown Los Angeles and is committed to continuing our annual investment in MOCA by continuing its rent-free Lease for the Bunker Hill museum space.

We look forward to receiving details of MOCA's financial recovery plan when it becomes available and working with Charles Young and the MOCA Board of Trustees to evaluate specific proposals for additional CRA/LA support that will help MOCA continue to provide superior cultural leadership into the next decade.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Estolano', written over a horizontal line.

Cecilia V. Estolano
Chief Executive Officer

ATTACHMENT A

ORGANIZATIONS PARTICIPATING IN
CRA/LA'S ARTS ORGANIZATION RETENTION PROGRAM

Hollywood

- American Center for Music & Theatre
- Circle X
- LA Stage Alliance/ EdgeFest
- Evidence Room Theater Company
- Harmony Project
- LA Contemporary Exhibitions (LACE)
- LACER (Literacy, Arts, Culture, Education, Recreation)
- Museum of Neon Art
- Open Fist Theater
- Theatre of NOTE
- Theatre West
- West Coast Ensemble

Mid City

- Ebony Repertory Theater
- St. Elmo Village
- The HeART Project
- Ghost Road/Trade City Productions
- Lula Washington Dance Theatre

North Hollywood

- The Antaues Company
- Deaf West Theatre
- The Road Theatre Company
- Interact Theatre Company
- NoHo Communications Group