

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: August 23, 2013

CAO File No. 0220-01024-2739
Council File No. 10-1451-S2
Council District: 1, 4, 13

To: The Mayor
The Council

From: Miguel A. Santana, City Administrative Officer *DH*

Reference: Economic Workforce and Development Department Transmittal dated June 27, 2013

Subject: **NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE CRA/LA FOR \$263,367 IN CRA/LA FUNDS AND A CONTRACT AMENDMENT WITH TIERRA WEST ADVISORS FOR THE NORTHEAST LOS ANGELES RIVER COLLABORATIVE**

SUMMARY

The Economic Workforce and Development Department (EWDD, formerly known as Community Development Department) requests authority to negotiate and execute the attached Assignment and Assumption Agreement with the Community Redevelopment Agency, A Designated Local Authority (CRA/LA) to accept \$263,367 in CRA/LA funding for the Northeast Los Angeles River Collaborative (NELA-RC) and include funds previously expended by CRA/LA on the NELA-RC project to be used toward the U.S. Department of Housing and Urban Development (HUD) required match for the Sustainable Communities Challenge Grant (Grant). The EWDD also requests authority to negotiate and execute a Second Amendment to the Tierra West Advisors contract (TWA, C-121796) and increase the funds by \$209,367 from \$326,988 to a new total amount of \$536,355. As proposed, \$209,367 of the \$263,367 in CRA/LA funds will be used to pay for TWA contract for an increased scope of work for the economic development study including implementation strategies and possible business attraction strategies. The balance (\$54,000) of the CRA/LA funds will be used (\$53,082 for as needed salaries and \$918 for related costs) for three existing Community Administrative Support Worker (CASWs) positions to support the administration of the NELA-RC program for approximately 999 hours for a 12-month period.

The goal of the NELA-RC project is to develop a comprehensive approach to linking land use plans and economic development strategies to benefit those that live and work in the area and to implement the Los Angeles River Revitalization Master Plan. The additional scope of work for the TWA contract will include planning for potential tax-assessment districts, if feasible, and/or grant-writing for state and federal grants. Funding may also be used for other program support related to the implementation strategies, including Geographic Information System Mapping and project management. The EWDD states that the CASWs will assist with the final preparation and consolidation of reports as well as with civic engagement activities. We recommend approval of the Assignment and Assumption Agreement between the EWDD and the CRA/LA for the \$263,367 in CRA/LA funds, the TWA contract amendment for the NELA-RC project and the \$54,000 for three existing CASWs positions.

Background

The Community Redevelopment Agency/Los Angeles (Former Agency) was dissolved on February 1, 2012 per Assembly Bill 1x26, and followed by a Successor Agency (CRA/LA). The CRA/LA is tasked with administering the process through which the business of the Former Agency is wound down and concluded, as established in the redevelopment dissolution legislation. As part of this administrative process, all proposed expenditures by the CRA/LA must be listed on a Recognized Obligation Payment Schedule (ROPS), a six-month expenditure plan, and must be approved by CRA/LA's Governing Board, Oversight Board and the State Department of Finance (DOF) which possesses final authority. On June 29 and July 9, 2012, the Council and Mayor respectively (C.F. No. 10-1451) authorized the EWDD to accept the assignment of the \$2.25 million Grant from the CRA/LA; to enter into an agreement with HUD for said funds; and to negotiate and execute agreement with NELA-RC partners identified in the Grant proposal and the NELA-RC project contractors for not-to-exceed amounts as finalized and approved by CDD and HUD, for a term effective from date of execution to February 20, 2014. On July 10, 2012, the CRA/LA's Oversight Board approved the transfer of the Grant Agreement from CRA/LA to EWDD including the \$263,367 in CRA/LA funds. However, the DOF denied the CRA/LA funds as part of its review of the CRA/LA's ROPS 3, which covers the period from January through June 2013.

Effective September 26, 2012, the EWDD and HUD executed a Cooperative Agreement for the \$2.25 million Grant for the NELA-RC project. On February 28, 2013, the CRA/LA submitted the \$263,367 in CRA/LA matching funds request to the DOF for reconsideration as part of its ROPS 2013-14A approval process, which covers the period from July through December 2013. On April 14, 2013, the DOF approved as enforceable obligations both the CRA/LA Grant Agreement and the use of the \$263,367 in CRA/LA matching funds for the NELA-RC project. The reason for the DOF approval this time was due to the execution date (February 21, 2011) of \$2.25 million Grant Agreement between the Former Agency and HUD, which was prior to the effective date (June 28, 2011) of the redevelopment dissolution legislation.

Tierra West Advisors contract

The EWDD now requests authority to negotiate and execute a second amendment to the TWA contract and increase the funds by \$209,367 from \$326,988 to a new total amount of \$536,355. The original project budget included \$263,367 in CRA/LA matching funds for the completion of an economic development study. The initial DOF denial of the CRA/LA funds created a funding gap for the NELA-RC project. In order to fill the funding gap, the Council and Mayor in March 2013 (C.F. No. 10-1451) approved the reallocation of a total \$151,988 within existing HUD funding from three subcontractors to the TWA contract and the balance from the Los Angeles Department of Water and Power (DWP) funds.

The TWA contract currently totals \$438,000 (\$175,000 for Project management and \$263,000 for economic development study). Approval of the recommendation would increase the total amount of funds to TWA by \$209,367 from \$438,000 to a new total amount of \$647,367 (\$175,000 for Project management and \$472,367 for the economic development study). As proposed, the \$647,367 for the TWA contract will be paid as follows:

- \$536,355 from the contract between the EWDD and TWA (C-121796). This contract will pay

\$175,000 for the Project management and a portion (up to \$361,355) of the economic development study.

- \$111,012 from a separate contract to be entered into between the EWDD and Department of Public Works, Bureau of Engineering (BOE) with TWA in order to complete the economic development study. This contract will be funded through resources allocated by the DWP to BOE through a Cooperative Agreement (C-121629) which includes a task to “Develop an economic development strategy for implementing a riverfront district with recommendations regarding sustainable financing for long-term LA River revitalization” (2.1.4).

The contract between the EWDD and TWA was executed on September 26, 2012 and ends on January 20, 2014. In March 2013, the EWDD and TWA executed the First Amendment to the contract in order to make technical changes including revising the funding source.

In March 2013, the Council and Mayor (C.F. No. 10-1451) authorized a total budget of \$3,373,607 for the NELA-RC project. Approval of the \$263,367 in CRA/LA funding would increase the total budget from \$3,373,607 to \$3,636,974. The following table provides a summary of the revised budget including both Grant and City-match funding:

No.	Category	HUD Grant	City-Match	Total
1.	Personnel	\$171,496	\$53,082	\$224,578
2.	Fringe Benefits	72,224	\$918	73,142
3.	Supplies	5,064	0	5,064
4.	Travel	5,850	0	5,850
5.	Subcontracts/Consultants	1,939,545	1,332,974	3,272,519
6.	Other Direct Costs	48,475	0	48,475
7.	Indirect Costs	7,346	0	7,346
8.	Total	\$2,250,000	\$1,359,974	\$3,636,974

The time of performance for the NELA-RC project remains at 36-months, effective February 21, 2011 through February 20, 2014. The EWDD states that HUD has agreed in concept to extend the time of performance because of the Grant suspension period resulting from the dissolution of the Former Agency. The EWDD plans to submit a formal request for additional time, as directed by HUD which asked the EWDD to wait until the City has made progress on the NELA-RC project implementation in terms of expenditures and deliverables. The EWDD is currently working on the formal request for additional time. Based on EWDD’s discussion with HUD, they expect HUD to approve approximately a four-month extension due to the CRA/LA suspension period.

RECOMMENDATIONS

That the City Council, subject to the approval of the Mayor:

1. Authorize the Interim General Manager, Economic Workforce and Development Department (EWDD), or designee to negotiate and execute the attached Assignment and Assumption Agreement with the Community Redevelopment Agency, A Designated Local Authority (CRA/LA) to accept \$263,367 in CRA/LA funding for the Northeast Los Angeles River Collaborative (NELA-RC) and include funds previously expended by CRA/LA on the NELA-RC project to be used toward the U.S. Department of Housing and Urban Development

required match for the Sustainable Communities Challenge Grant, subject to approval of the City Attorney and compliance with the City's contracting requirements;

2. Authorize the Interim General Manager, EWDD, or designee to negotiate and execute a Second Amendment to the NELA-RC agreement with Tierra West Advisors (C-121796) to allocate \$209,367 in additional funding for a new total not to exceed \$536,355, subject to approval of the City Attorney and compliance with the City's contracting requirements;
3. Authorize the Controller to establish new accounts and appropriate within Community Challenge Grant Fund No. 53W as follows:

Account	Title	Amount
22JXXX	Tierra West Advisors - CRA	\$209,367
	Total	\$209,367

4. Authorize the Controller to:
 - a. Appropriate \$53,082 in account 22K122 Community Development within Fund No. 53W;
 - b. Appropriate \$918 in account 22K299 Related Costs within Fund No. 53W; and,
 - c. Appropriate \$53,082 in account 001070 Salaries as Needed within Fund 100/22; and,
5. Authorize the Interim General Manager, EWDD, or designee to prepare Controller instructions and/or make any technical adjustments that may be required and are consistent with this action subject to the approval of the City Administrative Officer and instruct the Controller to implement these instructions.

FISCAL IMPACT STATEMENT

There is no impact on the General Fund. Approval of the recommendations will result in \$263,367 in CRA/LA funding for the Northeast Los Angeles River Collaborative (NELA-RC) and include funds previously expended by CRA/LA on the NELA-RC project to be used toward the U.S. Department of Housing and Urban Development required match for the Sustainable Communities Challenge Grant. As proposed, the \$263,367 in CRA/LA funding will be used as follows: a) \$209,367 for the Tierra West Advisors contract (C-121796) which will enhance their study for the NELA-RC project through the development of implementation strategies for financing and economic development tools; and, b) \$54,000 (\$53,082 for as needed salaries and \$918 for related costs) for three existing Community Administrative Support Worker positions to support the administration of the NELA-RC program. As such, the recommendation is in compliance with the City's Financial Policies in that a one time expenditure of a General Fund department is an adjunct to a one-time source of funds from CRA/LA.

MAS:LJS:02140022

Attachment

Attachment

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(NORTHEAST LOS ANGELES RIVER COLLABORATIVE
HUD COMMUNITY CHALLENGE PLANNING GRANT)**

This Assignment and Assumption Agreement (the "Agreement"), is made as of this ____ day of _____, 2013 (the "Effective Date"), by and among CRA/LA, A Designated Local Authority, a public body formed under California Health & Safety Code Section 34173(d)(3) (the "Assignor" or "CRA/LA-DLA"), and the City of Los Angeles, a municipal corporation acting by and through its Department of _____ (the "Assignee" or the "City"), with reference to the following recitals of fact:

RECITALS:

A. WHEREAS, the Community Redevelopment Agency of the City of Los Angeles (the "Former Agency") was awarded a grant in the amount of Two Million Two Hundred and Twenty Five Thousand and No/Hundredths Dollars (\$2,250,000) by the US Department of Housing and Urban Development (the "Grantor") on February 21, 2011 for the NELA Collaborative Project (the "Grant").

B. WHEREAS, the Grant is evidenced by an award letter, or equivalent documentation, and/or certain agreements and documents executed by the Former Agency in favor of the Grantor regarding the Former Agency's obligation to utilize the Grant for certain specified purposes (collectively, the "Grant Documents"). Copies of all of the original executed Grant Documents are attached as **Exhibit A**.

C. WHEREAS, to fulfill the obligations and purposes of the Grant, the Former Agency entered into certain agreements (each, a "Third Party Agreement", and, collectively, the "Third Party Agreements") with certain consultants and other third-parties (each a "Third Party", and, collectively, the "Third Parties") with the understanding that the Former Agency would utilize the services to be provided by the Third Parties pursuant to the Third-Party Agreements in connection with the project funded, in part or in whole, by the Grant. Copies of all of the original executed Third Party Agreements are attached as **Exhibit B**.

D. WHEREAS, as of February 1, 2012, the Former Agency was dissolved pursuant to California Health & Safety Code Section 34172.

E. WHEREAS, in accordance with California Health & Safety Code Section 34173(d)(3), CRA/LA-DLA was formed to serve as the successor agency of the Former Agency. In accordance with California Health & Safety Code Section 34175(b), all property and assets of the Former Agency, including, but not limited to, the rights to the Grant, were transferred to the control of CRA/LA-DLA. As the successor-in-interest to the Former Agency, CRA/LA-DLA is a party to the Grant Documents, and the Third-Party Agreements, and has all of the Former Agency's rights, duties, and obligations thereunder.

F. WHEREAS, Assignor desires to assign its rights, title, interests and obligations in and to the Grant, as evidenced by the Grant Documents, to the Assignee, and the Assignee desires to assume Assignor's rights, title, interests and obligations in and to the Grant as more fully set forth herein.

G. WHEREAS, Assignor desires to transfer the amount of Two Hundred Sixty Three Thousand Three Hundred and Sixty Seven Dollars (\$263,367.00) (the "Matching Funds") to the Assignee provided that the conditions set forth in this Agreement are satisfied, and the Assignee desires to accept the Matching Funds from the Assignor.

H. WHEREAS, Assignor desires to assign its rights, title, interests and obligations in and to the Third-Party Agreements to the Assignee, and the Assignee desires to assume Assignor's rights, title, interests and obligations in and to the Third-Party Agreements as more fully set forth herein.

I. WHEREAS, Assignor is authorized to enter into this Agreement pursuant to California Health & Safety Code Section 34177(i) and California Health & Safety Code Section 34177(c).

J. WHEREAS, Assignor's Governing Board approved and authorized: (i) Assignor's assignment of the Grant, as evidenced by the Grant Documents, to Assignee, (ii) Assignor's assignment of the Third-Party Agreements to Assignee, and the (iii) allocation and disbursement of the Matching Funds, on June 21, 2012, and the Assignor's Oversight Board approved and authorized such actions on July 12, 2012.

K. WHEREAS, the City Council of the City of Los Angeles approved and authorized the City's assumption of the Grant, as evidenced by the Grant Documents, the acceptance of the Matching Funds, and the assumption of the Third Party Agreements, from Assignor on _____, 2013.

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

A G R E E M E N T:

1. Assignment. As of the Effective Date and subject to the provisions of Section 4 hereof, Assignor hereby assigns to the Assignee all of Assignor's rights, titles, interests to the Grant, and all of Assignor's obligations under the Grant Documents and the Third-Party Agreements. In addition, Assignor hereby represents to Assignee that no Grant Proceeds have been disbursed to Assignor.

2. Assumption. As of the Effective Date and subject to the provisions of Section 4 hereof, (i) the Assignee hereby accepts the above assignment of the of Assignor's rights, titles, interests to the Grant, and all of Assignor's obligations under the Grant Documents and the Third-Party Agreements and (ii) the Assignee hereby agrees to abide by, perform and discharge all of the terms, covenants, obligations and conditions imposed upon Assignor under the Grant Documents and the Third-Party Agreements as if the Assignee were the original signatory thereto. All references in the Grant Documents and the Third-Party Agreements to the Former Agency or the Assignor, as applicable, shall hereafter be deemed to be references to the Assignee

3. Representations Regarding Grant and Third Party Agreements. The Assignor represents that, as of the Effective Date, the undisbursed amount of the Grant is Two Million

Two Hundred and Fifty Thousand and No/Hundredths Dollars (\$2,250,000), and there is no default under the Grant Documents or Third Party Agreements, and no event has occurred or failed to occur which, with the passage of time or the giving of notice or both, would constitute a default by Assignor under the Grant Documents or Third Party Agreements.

4. Disbursement of Matching Funds. In consideration for the assumption of the Grant as set forth herein, the Assignor shall deliver to the Assignee the Matching Funds within thirty (30) days following the date on which all of the following have occurred: (i) the State of California Department of Finance (the "DOF") has approved of the Assignor's Recognized Obligations Payment Schedule (the "ROPS") that lists the obligation to fund the Matching Funds as an "enforceable obligation" (as such term is defined in California Health & Safety Code Section 34171(d)) of the Assignor, or the applicable time period for any challenge or review by the DOF, or any other party, of such ROPS has expired; and (ii) pursuant to such ROPS, the Assignor has received the amount of the Matching Funds from the office of the Auditor-Controller of the County of Los Angeles (the "Auditor-Controller"). Following the receipt of the Matching Funds by the Assignor, the Assignor shall deliver the Matching Funds to the Assignee by check payable to the Assignee. Upon receipt of the Matching Funds, the Assignee shall utilize the Matching Funds for the sole and exclusive purpose of funding the Assignee's share of the funds in accordance with the Grant Documents. The use of the Matching Funds for any other purpose is prohibited. To the extent all, or any portion of, the Matching Funds are not disbursed for Project-related expenses, in accordance with the Grant Documents, then the Assignee shall promptly return such funds to the Assignor. Every six months, the Assignee shall file a report with the Assignor, advising of the status of the Project for which the Matching Funds were delivered, including amounts disbursed during the six month period, amounts disbursed to date, the pending balance, and funds anticipated to be returned, if any. The Assignee shall retain all books and records regarding the Matching Funds for no less than six (6) years following the date of disbursement by Assignee in accordance with the Grant Documents. Upon prior written notice to Assignee, the Assignor shall have the right to inspect the Assignee's books and records in connection with the use of the Matching Funds. Such right shall survive the expiration, or termination, of this Agreement.

5. Apportionment of Liability. Assignee shall be responsible for all claims, liabilities, obligations, costs and expenses of every kind and nature whatsoever that Assignor may suffer or incur and that arise from or are related, directly or indirectly, to conditions, actions, inactions or events that first existed or occurred from and after the Effective Date with respect to the Grant or Third Party Agreements. Assignor shall be responsible for all claims, liabilities, obligations, costs and expenses of every kind and nature whatsoever that Assignee may suffer or incur and that arise from or are related, directly or indirectly, to conditions, actions, inactions or events that first existed or occurred prior to the Effective Date with respect to the Grant or Third Party Agreements. Unless paid by Assignor from funds otherwise available, Assignor agrees to timely take all such actions as necessary to include on the appropriate Recognized Obligation Payment Schedule ("ROPS") all costs associated with its obligations under this Section 6.

6. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

7. Covenant of Further Assurances. The parties hereto hereby agree to execute such other documents and perform such other acts as may be necessary or desirable to carry out the purposes of this Agreement. The Assignor shall use good faith and commercially reasonable efforts to list the Matching Funds as an enforceable obligation (as such term is

defined in California Health & Safety Code Section 34171(d)) on each ROPS prepared and submitted in accordance with California Health & Safety Code Section 34177(m) until such time as the DOF approves of such ROPS (or the time period for the DOF, or any other party, to challenge such ROPS has expired); provided, however, the parties agree and acknowledge that unless and until the ROPS has been approved and, pursuant to such ROPS, the Auditor-Controller delivers the funds for the Matching Funds to the Assignor, the Assignor shall have no obligation to provide the Matching Funds to the Assignee. In the event that either: (i) the DOF fails to approve of the ROPS, or (ii) the Auditor-Controller fails to deliver proceeds to fund the Matching Funds to the Assignor pursuant to such ROPS, then the Assignor shall have no obligation to deliver the Matching Funds to the Assignee, and the Assignee shall release the Assignor from all liability in connection with such obligation.

8. Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.

9. No Attorneys' Fees. Should any action be brought arising out of this Agreement, including, without limitation, any action for declaratory or injunctive relief, each party shall bear their own attorneys' fees and costs and expenses of investigation as may be incurred.

10. Entire Agreement. This Agreement, including and incorporating the Recitals, represents the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements, understandings, representations, and covenants.

11. Exhibits. All exhibits attached to this Agreement are hereby incorporated into this Agreement by this reference.

12. Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural; and the plural shall include the singular. Titles of sections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

13. Third-Party Consents. As set forth in **Exhibit C** each Third-Party has consented to the assignment and assumption of the applicable Third-Party Agreement.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the Effective Date.

"ASSIGNOR"

CRA/LA, A DESIGNATED LOCAL AUTHORITY
a public body formed under Health & Safety Code Section 34173(d)(3), as successor to the Community Redevelopment Agency of the City of Los Angeles

By: _____
Steve Valenzuela
Chief Executive Officer

APPROVED AS TO FORM:

GOLDFARB & LIPMAN LLP

By: _____
Thomas Webber
CRA/LA-DLA Special
Counsel

"ASSIGNEE"

THE CITY OF LOS ANGELES, a municipal corporation
acting by and through its Department of _____

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

RICHARDS, WATSON &
GERSHON
A Professional Corporation

By:  _____
Steven R. Orr
Special Counsel to the
City of Los Angeles

EXHIBIT A
GRANT DOCUMENTS

EXHIBIT B

THIRD-PARTY AGREEMENTS

EXHIBIT B

AGREEMENT WITH TIERRA WEST ADVISORS, INC

EXHIBIT C-1

CONSENT TO ASSIGNMENT BY _____

CONSENT TO ASSIGNMENT

_____, a _____ ("Consultant") hereby consents to the assignment from CRA/LA, a Designated Local Authority ("Assignor"), to the City of Los Angeles, a municipal corporation, acting by and through its Department of _____ ("Assignee") of that certain agreement dated _____ (the "Third Party Agreement"), by and between the Consultant and the Community Redevelopment Agency of the City of Los Angeles, the predecessor-in-interest to the Assignor, in accordance with the Assignment and Assumption Agreement (_____) (the "Assignment Agreement") to which this Consent to Assignment is attached. Capitalized terms used, but not defined, in this Consent to Assignment shall have the meaning set forth in the Assignment Agreement.

The Consultant hereby acknowledges and represents for the benefit of Assignor and Assignee that as of the Effective Date: (i) the total amount due to the Consultant for all services rendered pursuant to the Third Party Agreement is _____ Dollars (\$ _____), and, as of the Effective Date, Consultant has received the amount of _____ Dollars (\$ _____) for services performed pursuant to the Third-Party Agreement; (ii) there are no other amounts outstanding or owed to the Consultant pursuant to the Third Party Agreement, and (iii) neither Assignor nor the Consultant is in default under the Third Party Agreement, and no event has occurred or failed to occur which, with the passage of time or the giving of notice or both, would constitute a default by the Assignor or the Consultant under the Third Party Agreement.

CONSULTANT:

_____, a

By: _____

Name: _____

Its: _____