TRANSMITTAL

To: THE COUNCIL

Date: FEB 01 2012

From: THE MAYOR

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

(Matt Karatz)

ANTONIO R. VILLARAIGOSA
Mayor

CITY OF LOS ANGELES

CALIFORNIA

RICHARD L. BENBOW
GENERAL MANAGER

COMMUNITY DEVELOPMENT DEPARTMENT

1200 W. 7TH STREET
LOS ANGELES, CA 90017

ANTONIO R. VILLARAIGOSA
MAYOR

January 11, 2012

Council District No: 1
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Economic Development Division

The Honorable Antonio R. Villaraigosa
Mayor, City of Los Angeles
Room 303, City Hall

Attention: Pamela Finley, Legislative Coordinator

TRANSMITTAL: REQUEST AUTHORITY TO EXECUTE A CITY LOAN AGREEMENT OF $16,860,000 WITH OPPIDAN, LLC TO PROVIDE FINANCIAL ASSISTANCE FOR THE DEVELOPMENT OF THE LAS VILLAS MEDICAL OFFICE AND RETAIL PROJECT

The General Manager of the Community Development Department (CDD) of the City of Los Angeles, respectfully requests that your office process this transmittal to the appropriate Los Angeles City Council Committee(s) and to the Los Angeles City Council for consideration and approval.

RECOMMENDATIONS

The General Manager of CDD, requests that the Mayor and City Council:

1. AUTHORIZE the General Manager of CDD, or designee, to negotiate and execute a Promissory Note in favor of the U.S. Department of Housing and Urban Development (HUD) and related documents (HUD Documents) to borrow up to $16,860,000, pursuant to the Section 108 Loan Guarantee Program, to provide financial assistance for development of the mixed-use Las Villas Medical Office and Retail Project (Project), subject to approval of the City Attorney as to form and legality;

2. AUTHORIZE the General Manager of CDD, or designee, to negotiate and execute amendments to HUD Documents that may be necessary, relative to the intent of this transmittal, subject to approval of the City Attorney as to form and legality;

3. AUTHORIZE the General Manager of CDD, or designee, to negotiate and execute a City Loan Agreement and related documents (City Loan Documents) for a City loan of up to $16,860,000 (City Loan) to Oppidan, LLC (Sponsor/Developer), in a New Markets Tax Credit Structure (NMTC), for reasonable and eligible development costs of the Project, subject to approval of the City Attorney as to form and legality;

4. AUTHORIZE the General Manager of CDD, or designee, to prepare Controller instructions, with concurrence from the CAO, including any future technical adjustments relative to the intent of this transmittal, and instruct the City Controller (Controller) to implement these instructions;

5. AUTHORIZE Controller to:

   a. Establish new account 22H640 Las Villas Medical Office and Retail Project and appropriate $16,860,000 within Fund 43F of the CDD Section 108 Loan Guarantee Program;

   b. Expend funds upon proper request of the General Manager of CDD, or designee;

6. FIND that the Project and the City Loan meet National Objective, Eligible Activities and Public Benefit as per the Code of Federal Regulations (CFR); and that the Project is necessary and appropriate to accomplish the City's economic development objectives; and

7. APPROVE the City Loan subject to environmental assessments of the Project to be in compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

FISCAL IMPACT STATEMENT

The actions recommended in this transmittal do not impact the City's General Fund. CDD will receive a front end fee of 1 percent, flat, at closing, amounting to $168,600.

PROJECT

The Project site is vacant real property located at 3301-3331 North Broadway, in the Lincoln Heights section of the City. The site is situated at the northeast corner of Gates and Thomas Streets. The contiguous parcels comprising the project site are approximately 48,840 square feet (or about 1.12 acres). The site is relatively flat with some slope on the western portion. The property is designated by six Los Angeles County Assessor Parcel numbers: 5208-012-001, 5208-012-002, 5208-012-003, 5208-012-004, 5208-012-005, and 5208-012-006 (Property).

Las Villas Medical Office and Retail Project is a new construction of mixed-use medical office and retail space. The Project will be a four story structure with three stories of medical office space above one level of ground floor retail. In terms of gross square footage - composition of the building is 10,000 square feet of retail, 71,300 square feet of medical office, and approximately 146,520 gross square feet of underground parking on three levels.

The Project will be designed and developed by the Charles Company to achieve a Leadership in Energy and Environmental Design (LEED) Silver rating. It will attract and provide much needed medical office space for doctors and medical professionals and practitioners.

BACKGROUND

In December 2001, $1,500,000 of Community Development Block Grant (CDBG) funding, based on a service pay-back contract, was provided by CDD to the Community Redevelopment Agency of the City of Los Angeles (CRA/LA), which in turn, funded 100 percent acquisition costs for the Property by Multi Entertainment Family Center Inc. which later was succeeded by Las Villas, Inc.

The buyer was never able to launch development of the contemplated project. Moreover, the ownership borrowed $585,000 from a private bank, secured by a first deed of trust against the property, to fund pre-development costs. As a result, security interest for the $1,500,000 of CDBG funding was subordinated to the $585,000 private bank loan.

In April 2009, CDD received a recorded notice of default by the private bank, which commenced foreclosure proceedings against the Property. The contemplated foreclosure action with respect to the $585,000 loan had the potential to wipe out the $1,500,000 CDBG funding.

In July 2009, CRA/LA assigned to CDD, and CDD assumed, the CRA/LA contract of $1,500,000 with Las Villas Inc., including the CRA/LA's second deed of trust security interest in the Property. In December 2009, in the aftermath of certain CDBG reprogramming, CDD reimbursed Las Villas, Inc. for $585,000 of reasonable and eligible predevelopment costs, which in turn, were applied by the ownership to repay the private bank loan in full. As a result, the City, through CDD, regained a first deed of trust security interest in the Property with respect to $2,085,000 of CDBG funding.

As a condition for this additional funding, the ownership was contractually required to procure partners or alternate buyers with capacity to develop the Property. The ownership actively pursued development and financial partners independently. CDD also introduced a number of prospective partners and buyers. In the end, Las Villas, Inc. reached an agreement with the Charles Company for disposition of the Property to Broadway Square LLC, an affiliate of the Charles Company.

As per Council File No. 09-1556-S3, in October 2011, Broadway Square LLC assumed the $2,085,000 of CDBG funding from Las Villas, Inc. In the course of filing the limited liability company with the State of California, it was found that another entity existed with the identical name. Therefore, Broadway Square LLC assigned its interest to Oppidan, LLC, where identity of ownership is exactly identical.

ECONOMIC DEVELOPMENT AREA

The Property is located within the Greater Lincoln Heights Business Improvement District and the East Los Angeles State Enterprise Zone. The Property is zoned and entitled for the Project. The Project and this financial assistance are supported by Council District One.

SPONSOR/DEVELOPER

The ownership, Oppidan LLC, a California limited liability company, is a single-asset and special purpose affiliate of the Charles Company. The managing member of the ownership is Sancam, Inc., whose President and 50 percent shareholder is Mark Gabay. The remaining 50 percent ownership interest is held by Arman Gabay. The investor members of the ownership are also Messrs. Mark and Arman Gabay, each with 50 percent interest.

The Charles Company is a major commercial real estate development company in the greater Los Angeles area with significant property holdings and a strong development background. Excel Property Management Services Inc., another wholly owned subsidiary of the Charles Company, executes all development and operational aspects of the properties owned and managed by the Charles Company and its affiliates, and as such, will execute development of this Project.

TERMS AND CONDITIONS OF CITY LOAN

Sponsor/Developer: Oppidan LLC, a California limited liability company, whose sole and controlling members are Messrs. Mark and Arman Gabay, each holding 50 percent membership interest.

The Developer is a single asset and special purpose affiliate of the Charles Company. Any reasonable change in the ownership structure is subject to approval of the City.

Borrower: A special purpose Investment Fund (Fund), to be formed in conjunction with the NMTC funding structure, subject to CDD approval.

The Fund would receive funds from multiple sources, including the City Loan and make investments in a special-purpose Community Development Entity (CDE), that in turn, would fund development costs of the Project by providing a combination of equity and secured debt, and would receive a first deed of trust security interest in the Project over the course of the initial seven years. The Fund will be the sole investor and creditor of the CDE.

Purpose of Loan: The City Loan will fund reasonable and eligible development costs of the Project, as provided in the applicable provisions of the Code of Federal Regulations (CFR).

Structure: The Fund will invest all proceeds, as part of the Qualified Equity Investments (QEI) in the CDE. In turn, the CDE will invest all proceeds from the Fund to pay for the eligible development costs of the Project.

The CDE will receive a first deed of trust security interest in the Project. In turn, CDD will have a security interest in the CDE. The Fund will hold a 99.99% ownership interest in the CDE and the NMTC investor will hold 0.01% of the remaining interest in the CDE.

During the initial seven years, the CDE would be the sole creditor of the Project and the Fund would be 99.99% owner of the CDE. The Fund would assign its security interest in the CDE solely to CDD.

Stated Maturity: Twenty years from inception of the City Loan.

Up Front Fees: 1.0 percent of the City Loan, payable from initial disbursement.

Interest Rate: The interest rate for the City Loan will be as follows:

For the period from initial disbursement of the City Loan through conversion of the City Loan to a Fixed Interest Rate:

The interest–only obligation of the City Loan will be at Variable Interest Rate(s) indexed to three months LIBOR, re-set monthly, plus a spread of 1.5 percent, per annum, payable quarterly in arrears.

For the period from conversion of the City Loan to a Fixed Interest Rate through Stated Maturity:

Quarterly installments of principal and interest will be paid at a yield of ten year U.S. Treasury Notes plus a spread of 1.5 percent, per annum, payable in arrears.

Conversion of the City Loan from the Variable Interest Rate to a Fixed Interest Rate shall occur at the latest of: (a) two years from inception of the City Loan, (b) at Stabilized Operation, as defined hereinafter, or (c) upon a public offering by HUD.

Stabilized Operation: Shall mean when the ratio of operating cash flow from the Project to debt service of all debt secured by the Project is not less than 1.2:1.0.

Interest Reserve: A sum of $758,700 (projected at an assumed all-in variable interest rate of 2.25 percent per annum for a period of two years) will be withheld by CDD from the initial draw of the City Loan, to pay for interest-only obligations of the City Loan over the course of the Variable Interest Rate period.

Upon conversion of the City Loan from the Variable Interest Rate to the Fixed Interest Rate, the unexpended portion of the Interest Reserve, if any, will be paid to the Borrower for reimbursement of reasonable and eligible and/or direct Project costs, or will be applied to permanent repayment of the City Loan.

During the Variable Interest Rate period, in case of any shortfall(s) in the Interest Reserve, the Borrower shall replenish the Interest Reserve in amount(s), as determined solely by CDD, for the City Loan to meet the ongoing interest-only obligations.

Recourse: The City Loan has limited recourse to the Borrower for the following:

1. Start of construction of the Project on the date pre-approved by CDD at its reasonable discretion;

2. Completion of construction of the Project, on the date pre-approved by CDD at its reasonable discretion;

3. Meeting of cost overruns of construction and lease-up, and all costs associated with any delay in meeting the completion date of construction, without additional encumbrances to the Project;

4. Replenishment of the Interest Reserve, upon depletion of the initial $758,700 by 85 percent or more, by an amount that CDD shall determine, as necessary for the City Loan to meet the interest-only obligations of the City Loan at the Variable Interest Rate, until the City Loan is converted to a Fixed Interest Rate;

5. Partial prepayment of the City Loan upon conversion of the City Loan to a Fixed Rate, in an amount that may be necessary for the conversion of the City Loan to the Fixed Interest Rate to occur, with the ratio of Net Operating Income

to the projected debt service amount at the Fixed Interest Rate, at not less than 1.2:1.0.

Collateral: Initial seven years - until exit of the NMTC investor:

The Fund pledge of a senior security interest in the CDE for the benefit the City Loan.

In turn, the CDE would have a first deed of trust security interest in the Project, including all improvements, leases and rents.

The City shall agree to forebear its right to exercise its indirect right to Collateral for a period of seven years, until the exit of the NMTC investor.

Subsequent thirteen years: from exit of the NMTC investor through Stated Maturity:

A first deed of trust and assignment of leases and rents, as security in the Project.

Appraisal: The City Loan is subject to an "as-built" market value appraisal of the Project, including pro-rata value of the leasehold interest in the site attributed to commercial development.

The ratio of total debt secured by the Project (including the City Loan) to the appraised value shall not exceed 80 percent.

Environmental: The City Loan is subject to Project compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

Prepayment Penalty: For the period from inception of the City Loan through conversion to a Fixed Interest Rate, the City Loan may be prepaid, at any time, in part or in whole, without penalty.

For the period from conversion of the City Loan to a Fixed Interest Rate through Stated Maturity, any prepayment of the City Loan, in whole or in part, is subject to a prepayment penalty.

The Prepayment Penalty will be an amount to be determined such that if the prepaid principal plus the prepayment penalty were invested in closest equivalent term of the U.S. Treasuries, the City will be made whole, as if the City Loan was outstanding.

Other Conditions:	The City Loan is subject to satisfactory documentation, compliance with applicable provisions of the CFR, City Ordinances, and other rules and regulations, at the reasonable discretion of CDD, and subject to further approval by the City Attorney.
Preleasing:	As a condition precedent to close of the City Loan, the Project must be preleased at a minimum of 50 percent.
Wage Compliance:	The labor component of construction cost shall be as per the Federal Commercial Davis Bacon Act.

RISKS AND MITIGATION FACTORS

1. Construction Completion Risk

   The construction related risks are mitigated as follows:

   - The Project site is flat and does not have extraordinary topography, nor does the planned Project have extraordinary development features, and is therefore, unlikely to face delay and/or cost overruns because of unforeseen impediments.

   - The Developer of the Project is among the most experienced, with integrated in-house operation that encompasses all phases of development, including, architectural services, construction, leasing, and property management.

   - The City Loan has recourse to the Developer if there are costs overruns for reasons of delay or any other cause.

   - The Project will be strongly capitalized with vested interest of the Developer. In addition to assuming $2,085,000 in CDBG funding, the Developer will have cash equity of $1.72 million and will guaranty the estimated $7.5 million of NMTC funding. The aggregate of equity accounts for more than 30 percent of total sources of funds for the Project.

   - Lastly, the Developer must provide payment and performance bonds equal to the Project construction budget.

2. Interest Rate Risk

   - Interest assumptions are three months LIBOR plus a spread of 1.50 basis points at 2.25 percent per annum during the Variable Interest Rate period. Given the current LIBOR rate of about 0.55 percent, the assumed cushion is about 0.20 percent.

     The current LIBOR rate is set forth in spite of the prevailing illiquidity in money markets and European banks scrambling to access US Dollars. Thus, given the recent low level of LIBOR, the cushion is deemed ample.

Moreover, over the course of the Variable Interest Rate period, should the Interest Reserve account deplete, the Developer must replenish the account.

- The Fixed Interest Rate on the conversion date will be set at the then prevailing yield for ten year U.S. Treasury Notes plus a spread over an index of 1.5 percent, per annum, at 6 percent. Given the current yield for US Treasury Notes of about 2 percent, the assumed cushion is about 2.5 percent.

  In the bonds investing community, the psychological equilibrium level of yield for the US Treasury is 4 percent. The current low level yield, although persisting for years, is believed to be unsustainable in the long term. Twin deficits and eventual recovery of the US economy must dictate a higher yield for US Treasuries. Therefore, the spread of 1.5 percent over an index of 4 percent at an all-in fixed interest rate of 5.5 percent is a reasonable assumption for a long term interest rate, and a 0.5 percent cushion is ample.

  At conversion of the Variable Interest Rate to the Fixed Rate, should the prevailing yields for US Treasuries be too high, or the Net Operating Income from the Project too low to result in a 1.2:1.0 debt coverage ratio, the Developer must partially prepay the City Loan in order to be able to execute the interest rate conversion.

PRIMARY REGULATORY PROVISIONS

National Objective

The City Loan meets the national objective as per 24 CFR 570.208(a)(1) – Activities benefiting all residents including low- and moderate-income persons on an area basis where at least 51 percent of the residents are low- and moderate- income persons.

Eligible Activity

The City Loan will fund only reasonable and eligible development costs of the Project. The activities shall be eligible under 24 CFR 570.703(i)(1) - Special Economic Development Activities.

Public Benefit

The Project will provide goods and services to residents of the area that otherwise are not available. This benefit shall be eligible under 24 CFR 570.209 (b)(1)(ii).

Accordingly, goods and services offered by the Project must be available to at least 48,172 of the area wide low- and moderate-income persons (calculated as $16,860,000 / $350).

Jobs

Although not a regulatory requirement, this project is anticipated to create jobs for the surrounding community. The project will create approximately 230 permanent jobs and

300 construction jobs during the development period based on industry standards (calculated as $16,860,000/350 sq.ft.=230 (rounded up) and $16,860,000/$55,000=300 (rounded down).

CDBG IMPACT

The City Loan is funded by borrowings of the City from HUD pursuant to the Section 108 Loan Guarantee Program of the Federal Housing and Community Development Act of 1974. The total borrowings of the City from HUD are limited to up to five times the current fiscal year's entitlement of the CDBG grant provided to the City.

The City's debt payment obligation to HUD is a function of materializing the receivables from the City loans made for economic development projects. In case of a default by any of the City loans, there will be a mismatch of payables and receivables, and thus, a necessity to meet the shortfall(s) from future CDBG grants as provided by the applicable CFR provision and the City's promissory notes made to HUD.

In case of a default by any of the City loans, the City's remedies are subject to terms of the underlying City loan agreements, collateral, recourses and documentation. The remedies available to the City may include foreclosure of collateral, and adjudication of the City's rights through legal proceedings.

NECESSARY AND APPROPRIATE STATEMENT

This funding is deemed appropriate under the federal assistance guidelines in that the Project costs have been determined to be reasonable; the City Loan amount appropriate; terms and conditions reasonable; and the public benefit is adequate to meet provisions of the CFR and established guidelines. The City Loan represents 55 percent of total Project cost.

Richard L. Benbow

RICHARD L. BENBOW
General Manager

Attachment A – Projected Sources & Uses of Funds
Attachment B – Projected Stabilized Operations Pro forma
Attachment C – Project Site Map

Attachment A
Projected Sources and Uses of Funds

Projected Sources of Funds			**Sources**	**$/Sq Ft**	**% Total**
City Loan	$16,860,000		$16,860,000	$207.38	55.0%
Equity Investment	$1,723,208	13.47%	$1,723,208	$21.20	5.6%
CDBG - Land Payout	$2,085,000		$2,085,000	$25.65	6.8%
NMTC Equity	$7,500,000	24.5%	$7,500,000	$92.25	24.5%
EDA Funding	$2,500,000		$2,500,000	$30.75	8.2%
	$30,668,208		**$30,668,208**	$377.22	100.0%

Projected Development Budget			**Budget**	**$/Sq Ft**	**% Total**
Land Acquisition			2,685,000	$0.00	6.8%
Construction Costs	Gross Sq Ft	$(DB)/Sq Ft			
Retail	10,000	$100.00	$1,000,000	$12.30	3.3%
Medical Office	71,300	$120.00	$8,556,000	$105.24	27.9%
Parking Floors	146,520	$50.00	$7,326,000	$90.11	23.9%
			$16,882,000	$207.65	55.0%
Tenant Improvement	81,300	$45.00	$3,658,500	$45.00	11.9%
Soft Costs		15%	$2,532,300	$31.15	8.3%
			$6,190,800		
NMTC Fees	5.0%		$1,533,410	$18.86	5.0%
NMTC Exist Fee	1.0%		$306,682	$3.77	1.0%
NMTC Consultants			$400,000	$4.92	1.3%
Financing Fee	1.0%	$16,860,000	$168,600	$2.07	0.5%
Interest Reserve	2.25%	2	$758,700	$9.33	2.5%
Developer Fee		3.50%	$590,870	$7.27	1.9%
Contingency			$1,152,146	$14.17	3.8%
			$4,910,409	$60.40	16.0%
Total Development Budget			**$30,668,209**	$377.22	**100.0%**
Funding Gap			**($0)**		

Attachment B
Project Stabilized Operation Pro forma

	Gross Sq Ft	NRSF	$/nrsf	Annual	$/Sq Ft
Rental Income					
Retail	10,000	9,500	$1.75	$210,000	$2.58
Medical Office	71,300	60,605	$2.00	$1,711,200	$21.05
Gross Revenue	81,300	70,105		$1,921,200	$23.63
CAM reimbursements				$46,850	$0.58
Vacancy Allowance			5%	($98,403)	($1.21)
				$1,869,648	$23.00
Operating Expenses	10,000	$0.13		($15,600)	($0.19)
	71,300	$0.13		($111,228)	($1.37)
Property Taxes	10,000	$250.0	1.25%	($31,250)	($0.38)
	71,300	$250.0	1.25%	($222,813)	($2.74)
Property Management			5.00%	($96,060)	($1.18)
Total Expenses				($476,951)	($5.87)
Net Operating Income				**$1,392,697**	$17.13
Maximum Debt Service			1.20	$1,160,581	$14.28
Free Cash Flow				$232,116	$2.86

January 11, 2012

Las Villas Medical & Retail
Office Project

Attachment C
Project Site Map