

LATHAM & WATKINS LLP

July 22, 2015

VIA EMAIL AND MESSENGER

Planning and Land Use Management Committee
Los Angeles City Council
City Hall
200 North Spring Street
Los Angeles, CA 90012
Attn: Sharon Gin, Legislative Assistant

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Re: Coronel Apartments Project (CPC-2010-1554-DB-SPP; ENV 2012-110-EIR);
Council File No. 15-0790

Dear Chair Huizar and Honorable Committee Members:

On behalf of Hollywood Community Housing Corporation ("HCHC"), we write regarding the Committee's consideration of HCHC's proposed Coronel Apartments Project (the "Project") at its July 28, 2015, meeting. We appreciate the City Planning Commission's unanimous approval of this almost 100% affordable housing Project, which will help fulfill important City policy goals and a critical need by providing additional affordable housing opportunities for families in the Hollywood/East Hollywood community. Specifically, the Project will:

- Create **53 new affordable housing units that will remain affordable for 55 years**, which will increase the affordable housing supply for families in the Hollywood/East Hollywood Area and help the City achieve its goals for new affordable housing;
- Provide **new units that can replace older income restricted units whose affordability restrictions will expire within the next five to ten years**;
- Provide **a mix of affordable units for families of various sizes**, including one, two, and three-bedroom units;
- Be **located near commercial areas and within 1,200 feet of a Metro Red Line Station** and other public transportation opportunities, which will offer affordable housing residents an ability to commute to work without the need for a car;
- Be designed and constructed to incorporate environmentally sustainable design features that will **achieve the standards of the U.S. Green Building Council's Leadership in Energy Efficiency and Design (LEED®) program**;

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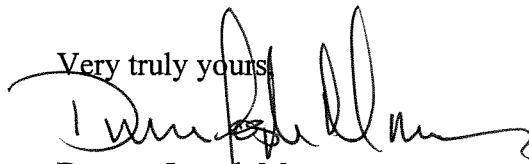
- Provide **generous open space in an urban environment**;
- Provide **off-street parking for vehicles and bicycles**, reducing noise and congestion along adjacent streets; and
- Provide needed supportive **services for affordable housing tenants**.

Despite these significant community benefits, the Project has become the subject of four baseless appeals that make incorrect claims about the Project. Throughout the Project's multi-year entitlement process, the appellants' comments have already received full responses in the EIR and the City's public hearing process, but opponents continue to assert the same claims in their appeals. Despite these erroneous and previously addressed claims, in order to keep the PLUM Committee fully informed of the issues, we have fully responded to the appellants' claims in **Attachment A** to this letter. As explained in detail in Attachment A:

- The Cultural Heritage Commission determined that the building at 1601 N. Hobart Boulevard **does not meet the criteria for a Historic Cultural Monument**, which supports the Environmental Impact Report's ("EIR") conclusion that **this building is not a historic resource under CEQA**;
- The Project's EIR analyzed a **reasonable range of alternatives**, and **no preservation alternative is required under CEQA**;
- The Project's **Statement of Overriding Considerations is supported by substantial evidence**;
- **The City Council has not improperly allocated funds** for or pre-committed to approval of the Project; and
- **HCHC has provided the financial analysis required by the City's Municipal Code**, which demonstrates that a project without the requested density bonus incentives would not be financially feasible.

We appreciate the opportunity to respond to these comments. We look forward to further discussing the Project with you at the Committee's July 28 meeting, and respectfully request that you deny the appeals and recommend approval of the Project to the City Council.

Very truly yours,



Duncan Joseph Moore
of LATHAM & WATKINS LLP

cc: Bill Harris and Maura Johnson, Hollywood Community Housing Corporation
Christopher Murray, Rosenheim & Associates, Inc.
Shane Parker, Parker Environmental Consultants

ATTACHMENT A
RESPONSE TO APPEALS

I. INTRODUCTION

The Coronel Apartments Project (“Project”) was unanimously approved by the City Planning Commission on May 14, 2015. Specifically, the Planning Commission (1) approved an on-menu incentive pursuant to Los Angeles Municipal Code (“LAMC”) Section 12.22.A.25(g)(2) for averaging density, open space, and parking over the entire site and permitting vehicular access from a less restrictive zone to a more restrictive zone; (2) approved off-menu incentives pursuant to Section 12.22.A.25(g)(3) related to lot ties, building height, open space, and windows facing windows; (3) approved a Specific Plan Project Permit Compliance Review, pursuant to Section 11.5.7.C of the LAMC, with the Vermont/Western Transit Oriented Specific Plan/Station Neighborhood Area Plan (“SNAP”); (4) adopted modified Conditions of Approval; (5) adopted amended findings in support of the requested entitlements; and (6) certified Environmental Impact Report (“EIR”) No. ENV-2012-110-EIR and Errata (dated October 9, 2014, and October 25, 2013) for the Project and the required findings for the adoption of the EIR and the Statement of Overriding Considerations (the “Determination”).

Appeals of Planning Commission decisions to City Council are reviewed for an error or abuse of discretion. LAMC § 12.24.I.2. None of the appeals demonstrate that the Planning Commission committed an error or abuse of discretion. Substantially all of the issues raised by the appeals have been thoroughly addressed in the City’s administrative record for the Project. To clarify certain issues, however, we are providing you with references to where the appeals’ claims have been addressed in the record and including supplemental information where relevant. As set forth in detail below, there is substantial evidence in the record supporting the Planning Commission’s decision to approve the Project and certify the Project’s EIR, and the City Council should deny the appeals.

The Project has been subject to an extensive public process and voluminous record. In compliance with Section 15082 of the CEQA Guidelines, a Notice of Preparation (“NOP”) was prepared by the Department of City Planning and distributed to the State Clearinghouse, Office of Planning and Research, responsible agencies, and other interested parties on March 5, 2012. The NOP was circulated until April 4, 2012. A public scoping meeting was held on March 14, 2012, to obtain the public’s initial views about environmental issues that should be evaluated in the Draft EIR. The Draft EIR was circulated for review and comment by the public and other interested parties, agencies, and organizations for a period of 45 days, beginning on February 21, 2013 and ending on April 8, 2013.

The Draft EIR evaluated in detail the potential environmental effects of the proposed Project. It also analyzed the effects of a reasonable range of alternatives to the proposed Project, including the potential effects of a “No Project” alternative. Following the close of the public review period, written responses were prepared to the comments received on the Draft EIR. The comments on the Draft EIR and the responses to those comments are included within the Final EIR. The Final EIR was published by the City on August 13, 2013. An Errata to the Final EIR (“First Errata”) was published by the City on October 25, 2013, which included minor edits and clarifications associated with changes to the Applicant’s discretionary entitlement requests for the

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Project that were requested by the City to comply with the Department of City Planning's October 24, 2012, memorandum entitled "Implementation of the Multiple Approvals Ordinance Density Bonus Projects." A second Errata ("Second Errata") to the Final EIR was published on October 9, 2014, to provide additional information and analysis in response to two events that transpired after the Final EIR was published but prior to the certification of the EIR: (1) to address the unanimous decision by the City of Los Angeles Cultural Heritage Commission ("CHC") denying an application that requested the CHC declare the residence located at 1601 N. Hobart Boulevard (the "Hobart Structure") as an Historic-Cultural Monument, and (2) to address the Project's consistency with the 1988 Hollywood Community Plan in response to the City Council's directive pursuant to Zoning Information File ("ZI") 2433, dated April 2, 2014.

The Planning Commission had all of this information available when it considered the Project on May 14, 2015. ***The contentions raised by appellants are refuted by information in the record.*** Accordingly, there is ample support for the Planning Commission's decision, and the appeals should be denied.

II. SUMMARY OF APPEALS

Below are detailed responses to arguments and claims made in the four appeal letters submitted to the PLUM Committee. The four appeals were submitted by: (1) Charles J. Fisher ("Fisher Appeal"); (2) William Zide ("Zide Appeal"); (3) David Bell ("Bell Appeal"); and (4) the La Mirada Avenue Neighborhood Association ("LMANA Appeal"). None of the appeals demonstrate that the Planning Commission either erred or abused its discretion, and therefore each appeal should be denied. Because the appeals raise many duplicative points, our detailed responses justifying denial of the appeals are provided below based on the subject matter raised. However, we have briefly summarized each of the four appeals here:

Fisher Appeal: The Fisher Appeal raises concerns about the demolition of the Hobart Structure and alternatives to the Project. Detailed information refuting the contentions raised in this appeal is provided in Sections IV and VI, below.

Zide Appeal: The Zide Appeal raises concerns about the demolition of the Hobart Structure, alternatives to the Project, and the Project's cost analysis. Detailed information refuting the contentions raised in this appeal is provided in Sections IV, VI, and VIII, below.

Bell Appeal: The Bell Appeal raises concerns about the demolition of the Hobart Structure, alternatives to the Project, and the City's alleged "pre-commitment" to the Project. Detailed information refuting the contentions raised in this appeal is provided in Sections IV, VI and VII, below.

LMANA Appeal: The LMANA Appeal raises concerns about the demolition of the Hobart Structure, alternatives to the Project, the City's alleged "pre-commitment" to the Project, the Project's Statement of Overriding Considerations, and the Project's consistency with the SNAP. Detailed information refuting the contentions raised in this appeal is provided in Sections IV, VI, VII, X, and XI, below.

III. THE CULTURAL HERITAGE COMMISSION DETERMINED THAT THE BUILDING AT 1601 N. HOBART BOULEVARD DOES NOT MEET THE CRITERIA FOR A HISTORIC CULTURAL MONUMENT

1. Substantial Evidence Demonstrates That the Hobart Structure Is Not a Historic Resource

The appellants continue to express concern over the demolition of the residence located at 1601 N. Hobart Boulevard (the “Hobart Structure”).¹ However, substantial evidence in the Project’s environmental impact report (“EIR”) and the City’s record for the Project demonstrates that the Hobart Structure is not a historic resource under the California Environmental Quality Act (“CEQA”). As part of the Project’s CEQA review process, the Hobart Structure was initially evaluated by Christy McAvoy, who previously evaluated the structure in 1979. As explained in Response to Comment 5.2 in the EIR, in Ms. McAvoy’s re-evaluation of the Hobart Structure in 2010, she concluded that the Hobart Structure “does not meet the criteria for individual listing as a local landmark or as a contributor to a potential district.” The appellants’ attempts to discredit Ms. McAvoy’s 2010 evaluation have no merit. The appellants cannot ignore that when Ms. McAvoy evaluated the Hobart Structure in 2010, she concluded that it did not merit preservation.

In addition, the Hobart Structure was thoroughly evaluated by a second historic resources expert, Dr. Margarita Wuellner, Director of Historic Resources and Principal Architectural Historian of PCR Services Corporation. Dr. Wuellner’s thorough, 77-page analysis (excluding technical appendices) was included as Appendix B.1 to the EIR, and confirmed that the Hobart Structure does not qualify as a historic resource under applicable City, State or Federal criteria.

The Hobart Structure was also independently and extensively analyzed by the City’s Cultural Heritage Commission in March 2014, following the submittal of an application seeking to have the Commission declare the Hobart Structure a Historic-Cultural Monument by Charles J. Fisher. Despite claims made both in the application and expressed to the Cultural Heritage Commission at two public hearings that the Hobart Structure qualifies as a historic resource worthy of protection, the **Commission unanimously disagreed**. Instead, the Commission determined that the Hobart Structure does not meet the criteria for a Historic-Cultural Monument set forth in the City’s Cultural Heritage Ordinance because, among other things:

1. The Hobart Structure is not a pure example of Pueblo Revival style or Spanish Revival style architecture, and instead represents an “eclectic” blend of styles that include Mediterranean and indigenous influences.
2. The Hobart Structure is not a notable work by architect Henry Harwood Hewitt; rather, it is an example of a small house designed by Hewitt. Further, Hewitt’s notable works are discussed in multiple pieces of literature, and the Hobart Structure is not included among them.
3. Substantial alterations have been made to the Hobart Structure that have compromised its integrity of design, including the removal of the rear courtyard and changes to the

¹ See Fisher Appeal at 1-7; Bell Appeal at 1; Zide Appeal at 1-2.

interior circulation pattern, such that the Hobart Structure “does not currently retain sufficient integrity to embody the distinguishing characteristics of an architectural style.”

The Project’s expert evaluations and the independent conclusions of the City’s Cultural Heritage Commission confirm that the Hobart Structure is not a historic resource under applicable state, federal or City criteria. Accordingly, and contrary to the appellants’ claims, the demolition of the Hobart Structure and development of the Project would not result in a significant impact to a historic structure.

2. **The Project Did Not Request Federal Funding and Section 106 Review was Not Required**

The appellants make several claims about the applicability of a National Environmental Policy Act (“NEPA”) review, which is required only for projects proposing federal funding. LMANA Appeal at 4; Bell Appeal at 1. The LMANA Appeal states that in “[i]n November of 2013, the Los Angeles Housing and Community Investment Department [LAHCID] had in fact refused to proceed with the processing of federal housing tax credits for the Coronel Apartments project.” LMANA Appeal at 4. This statement is false. HCHC has never proposed any federal funding for its Project. LAHCID has confirmed the Low Income Housing Tax Credits that HCHC applied for are not considered federal funds that trigger NEPA review.

The LMANA Appeal asserts that LAHCID “halted further consideration of HCHC’s application after the agency’s required Section 106 environmental review determined that the 1920 residence on the project site is eligible for inclusion on the National Register of Historic Places.” LMANA Appeal at 4. This statement is also inaccurate. In a letter submitted at the Project’s March 27, 2015, Hearing Officer hearing, Dr. Robert Manford, Environmental Affairs Officer at LAHCID, explained that, “[a]s typically done for all HCID pipeline projects, an initial screening was commenced as part of a Section 106 of the National Historic Preservation Act (Section 106) review, which is a requirement under NEPA. The initial screening under Section 106 conducted on November 21, 2013 recommended further study. However, since the project was not utilizing federal funds, NEPA compliance was not applicable and so the Section 106 process was not completed, because it was neither necessary nor required.” Accordingly, LAHCID did not halt consideration of the Project due to the Section 106 screening.

The Section 106 screening at issue is dated November 21, 2013, and was prepared by ICF International (“ICF Letter”). ICF is an outside consultant that was retained by the City to conduct an initial screening for historic resources as part of the City’s National Historic Preservation Act Section 106 review. While the ICF Letter recommends that the Hobart Structure be considered eligible for the National Register of Historic Places for purposes of the Section 106 consultation process, the ICF Letter is only a preliminary step in the Section 106 process, which would require additional action and analysis by a federal agency to determine if the Hobart Structure meets the eligibility requirements set forth in 36 CFR Part 800. (See 36 CFR § 800.4.) As discussed in the Planning Commission’s Staff Report, as well as in LAHCID’s letter that is in the City’s record, the ICF Letter constituted an “initial screening” and that it:

[W]as inconclusive and contained an opinion from the consultant that can best be described as a working hypothesis, under the circumstances, that recommended further analysis under NEPA. That opinion has neither been scrutinized nor tested under NEPA because there is no federal involvement, and therefore no determination was reached about the subject property's eligibility under the National Historic Preservation Act.

More specifically, and consistent with LAHCID's explanation, the ICF Letter neither makes any independent findings or determinations in support of its recommendation, nor does it provide any evidence or analysis demonstrating that the Hobart Structure could qualify for the National Register under applicable criteria. At most, it is an initial screening that suggests further analysis be conducted as part of any NEPA process. In contrast to the unsubstantiated statements in the ICF Letter, and as discussed above, the detailed analysis of the Hobart Structure in the Historic Resources Assessment included as Appendix B to the EIR concludes that the Hobart Structure is not eligible for listing at the federal level and is not a historic resource under CEQA. The appellants' claims to the contrary have no support.

IV. THE PROJECT'S EIR ANALYZED A REASONABLE RANGE OF ALTERNATIVES

The appellants contend that the EIR should have included a preservation alternative that analyzes the retention of the Hobart Structure.² The appellants suggest that, by not including a preservation alternative, the EIR did not consider a reasonable range of alternatives to the Project. Pursuant to the California Environmental Quality Act ("CEQA"), and as confirmed in the Commission's Staff Report, the Project's EIR was not required to analyze a preservation alternative because there will be no significant impact to a historic resource.

California Public Resources Code Sections 21001(g), 21002.1(a), and 21061 require that an EIR identify alternatives to a proposed project. CEQA Guidelines Section 15126.6(a) expands on the statute by stating that an EIR must include a "reasonable range" of alternatives to the project "which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the *significant effects* of the project." (emphasis added.) Likewise, CEQA Guidelines Section 15126.6(f)(2)(A) further clarifies that an EIR is not required to analyze alternatives that would not eliminate or substantially reduce *significant adverse effects*.

LMANA cites to *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553 (1990) and *Laurel Heights Neighborhood Improvement Ass'n v. Regents of Univ. of Cal.*, 47 Cal.3d 376 (1988) in support of its contention that a preservation alternative should have been analyzed in the EIR. LMANA Appeal at 8. These cases do not support LMANA's proposition. Rather, these cases confirm that an EIR must only consider alternatives that mitigate or avoid the "*significant effects*" of the project. (See *Citizens of Goleta Valley*, 52 Cal.3d at 565 ["public agencies should not approve projects as proposed if there are feasible alternatives. . . available which would substantially lessen the significant environmental effects of such projects"])

² See Fisher Appeal at 1; LMANA Appeal at 6-8; Zide Appeal at 1; Bell Appeal at 1-2.

[quoting Pub. Resources Code § 21002]; *Laurel Heights Neighborhood Improvement Ass'n*, 47 Cal.3d at 391 [same].)

Here, the EIR concluded that the Project would not have a significant impact on historic resources. In addition, the Cultural Heritage Commission and independent experts have confirmed that the Hobart Structure is not a historic resource. Because no significant impacts to historic resources would occur if the Hobart Structure were demolished, retention of the Hobart Structure would not “substantially lessen any of the significant effects of the project.” Accordingly, an alternative that includes the retention of the Hobart Structure is not required under CEQA.³ The EIR did include an analysis of a reasonable range of alternatives that met CEQA’s requirements, and no additional alternatives are required to be analyzed.⁴

LMANA’s claims that the Hollywood Redevelopment Plan required analysis of a preservation alternative have no merit. LMANA Appeal at 7. While Section 511 of the Hollywood Redevelopment Plan encourages the preservation of buildings with architectural and historical significance, the Hobart Structure does not fall within the Plan’s definition of a building with historical or architectural significance: “Buildings listed as Cultural-Historic Monuments by the City and listed in, determined or appear [sic] to be eligible for listing in the National Register of Historical Places.” Because the Hobart Structure is not a Cultural-Historic Monument and has not been deemed eligible for the National Register, there is no Hollywood Redevelopment Plan requirement to preserve the Hobart Structure.

LMANA also suggests that because the Sunset Gordon project preserved the façade of a building in the Hollywood Redevelopment Plan area, the Hobart Structure must also be preserved. LMANA Appeal at 7-8. But the City’s decision to condition a project to retain part of a non-historic building façade in a separate project in the Hollywood Redevelopment Plan area has no bearing on whether the Hobart Structure is a significant historic resource that merits preservation. This is not a case of “flip-flopping” as LMANA claims; rather, the record is replete with evidence that the Hobart Structure is not a historic resource that should be preserved. While LMANA has a different opinion, CEQA recognizes that differing opinions do not make an EIR inadequate. *See* CEQA Guidelines § 15151.

V. THE PROJECT’S STATEMENT OF OVERRIDING CONSIDERATIONS IS SUPPORTED BY SUBSTANTIAL EVIDENCE

The LMANA Appeal claims that the Statement of Overriding Considerations is not supported by substantial evidence and creates a “false justification” for the Project. LMANA Appeal at 8-10. This is untrue.

When a lead agency approves a project that will result in the occurrence of significant and unavoidable environmental effects, the CEQA Guidelines require the agency to “state in

³ Moreover, the EIR’s “No Project” Alternative did include retention of the Hobart Structure. (See EIR, Section V.B.)

⁴ The LMANA Appeal asserts that the EIR should have been recirculated to include a preservation alternative. LMANA Appeal at 7. However, because no preservation alternative was required to be studied, there is no basis for LMANA’s claims regarding recirculation.

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writing the specific reasons to support its action based on the final EIR and/or other information in the record.” CEQA Guidelines, § 15093(b). This statement of overriding considerations is composed of “larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes, and the like” and “must be supported by substantial evidence contained in the final EIR and/or other information in the record.” *Concerned Citizens of South Central L.A. v. Los Angeles Unified School Dist.*, 24 Cal.App.4th 826, 847 (1994).

Here, the Planning Commission complied with CEQA in its adoption of the Statement of Overriding Considerations. First, it found unavoidable environmental impacts of the Project, as identified in the Final EIR. In compliance with CEQA, the Planning Commission has imposed all feasible mitigation measures to reduce these impacts. The Planning Commission also considered alternatives that would have the potential to reduce the Project’s significant and unavoidable impacts; however, the Planning Commission rejected these alternatives as infeasible. Thus, a limited number of impacts are projected to remain significant even following implementation of the Project’s Mitigation Monitoring Program. Pursuant to Section 15093(b) of the CEQA Guidelines, the Planning Commission has adopted a Statement of Overriding Considerations based on information in the Draft and Final EIRs, Errata 1, and Errata 2, including a list of 14 benefits of the Project that justify approval of the Project despite its significant environmental effects, because the overriding considerations outweigh the environmental impacts of the Project. Determination at F-67 to F-71. All of this evidence was before the Planning Commission and in the City’s record before the Commission’s May 14, 2015, hearing, contrary to LMANA’s claims.

Nonetheless, the LMANA Appeal continues to assert that the same benefits could be achieved by a modified project that preserves the Hobart Structure, or a Code-compliant project. However, as described in detail in Sections III and IV above, the Hobart Structure is not a historic resource, and thus the EIR was not required to evaluate a preservation alternative. Likewise, as described in detail on pages F-64 to F-66 of the Determination, the City Planning Commission determined that the Market Rate Zoning Compliant Alternative is infeasible because it would not meet the majority of the Project objectives to the same extent of the Project, including the City’s important policy objective of creating new affordable housing to help meet the demand for affordable housing in the Southern California and Hollywood/East Hollywood Area. Accordingly, LMANA’s claims that the Statement of Overriding Considerations is flawed have no basis.

VI. THE PROJECT IS NOT SEEKING AN EXCEPTION TO THE SNAP

The LMANA Appeal asserts that the Project does not meet the requirements to receive an exception from the SNAP. LMANA Appeal at 10-13. However, the Project is not seeking an exception from the SNAP. Rather, as described in Section I above, the Project is seeking “on-menu” and “off-menu” incentives for affordable housing projects pursuant to LAMC Section 12.22.A.25(g)(2) and (3).

The Project’s use of such incentives is permitted under the City’s Density Bonus/Affordable Housing Incentives Ordinance as authorized under LAMC Section 12.22A25(g)(3) and Government Code Section 65915. Government Code Section 65915 expressly contemplates the use of incentives in lieu of variances for affordable housing projects. Further, HCHC was required to apply for Off-Menu Incentives in order to comply with the City

Planning Department's October 24, 2012 memorandum entitled "Implementation of the Multiple Approvals Ordinance –Density Bonus Projects." Thus, the Project's use of Off-Menu Incentives is appropriate under the LAMC and the Government Code, and the Project is not required to obtain any separate exceptions from the SNAP.

LMANA suggests that the use of incentives for the Project is improper under Government Code section 65915(d)(1)(c), which provides that an incentive may not be granted if contrary to state or federal law. LMANA Appeal at 13. LMANA implies that the use of incentives is precluded here because the Project somehow allegedly violates Government Code Section 65906. Section 65906 provides that variances "shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification." Section 65906 is inapplicable to the Project, however, as the Project is not requesting a variance.

VII. THE CITY HAS NOT "PRE-COMMITTED" TO THE PROJECT

1. The City Has Not Improperly Allocated Funds to the Project

The LMANA Appeal and Bell Appeal assert that the City Council pre-committed itself to or improperly allocated funds for the Project in contravention of *Save Tara v. City of West Hollywood*, 45 Cal.4th 116 (2008) ("*Save Tara*"). LMANA Appeal at 2-6; Bell Appeal at 3-4. *Save Tara*, however, does not apply to the circumstances of this Project.

In *Save Tara*, the City of West Hollywood approved a "Conditional Agreement for Conveyance and Development of Property" between the City and a developer. The California Supreme Court determined that the agreement constituted an approval for CEQA purposes. Under CEQA, an "approval" means the decision by a public agency that "commits the agency to a definite course of action in regard to a project intended to be carried out by any person." (CEQA Guidelines § 15352(a).) The Court concluded that, under the facts of *Save Tara*, there was so much bureaucratic and financial momentum behind the project that it was effectively approved when the City entered into the agreement, despite the fact that the project needed additional entitlements and CEQA review. (*Id.* at 140-142.) The Court expressly limited its holding, however, stating that not all agreements are commitments requiring CEQA review. (*Id.* at 136.)

Here, the City Council has not entered into any similar agreement or commitment to a definite course of action concerning the Project. Rather, on May 2, 2014, the City Council passed a motion to transfer available funds from an affordable housing trust fund to assist the proposed Project. These funds could be re-appropriated at any time and used for a different project if the instant Project is not approved. Therefore, *Save Tara* is inapposite.

Nonetheless, the LMANA Appeal and Bell Appeal suggest that the City Council improperly allocated funds for the Project and ordered the General Manager of the Los Angeles Housing Department to support the Project. LMANA Appeal at 4; Bell Appeal at 4. However, nowhere does the City Council's motion order the General Manager to support the Project. Rather, the motion delegates the authority to transfer funds to the General Manager. The motion also states that the funds shall not be expended without the proper written demand of the General

Manager. Such direction is purely administrative, and it neither constitutes a commitment by the City Council to approve the Project nor a directive that the General Manager must somehow separately support the Project.

2. **Project History and Miscellaneous Funding Sources**

The LMANA Appeal and Bell Appeal also make numerous incorrect claims about the Project's history and funding sources. These claims are addressed here to clarify the record on these issues.

First, the appellants assert that on June 17, 2010, the CRA/Los Angeles Board of Commissioners approved a "permanent loan agreement" with HCHC for approximately \$5 million in funding for the Project. LMANA Appeal at 3; Bell Appeal at 3. However, the loan approved on June 17, 2010, was actually a *predevelopment* loan, not a permanent loan.⁵ One of the conditions precedent to the conversion of the predevelopment loan was that the "CRA/LA Board and the city council of the City, at their sole and absolute discretion, shall have taken specific action to approve, with or without additional conditions, the CRA/LA Loan Conversion and the Implementation Agreement, which action shall be in addition to the action taken to authorize this [loan] agreement. Such additional actions taken by the CRA/LA Board and the city council of the City shall be accompanied by the appropriate environmental impact analysis in accordance with [CEQA]."⁶ This condition confirms that the approval of a predevelopment loan agreement for the Project in no way forces the City's hand with respect to approval of the Project.

Second, the appellants claim that the Landmark California Development Corporation disbursed \$600,000 to HCHC for the Project. LMANA Appeal at 3; Bell Appeal at 3. This statement is false. The Landmark California Development Commission provided this in lieu contribution to HCHC in 2012 for one or more HCHC projects in need of financial assistance. This did not include the Coronel Apartments project.

Third, the appellants claim that the approval of the Millennium Hollywood project in July 2013 directed funding to the Project. LMANA Appeal at 3; Bell Appeal at 3. While funds were directed to the Project via the City's in lieu affordable housing fund administered by Los Angeles Housing and Community Investment Department ("LAHCID"), the payment of funds was contingent upon the issuance of a building permit to the Millennium Hollywood project. As the appellants and the City are aware, in April 2015, the Los Angeles Superior Court ordered the City Council to set aside certain actions related to the Millennium Hollywood project, and therefore these funds are unlikely to be available before this Project's anticipated start of construction. Accordingly, the applicant has already identified an alternate source of funds to replace these funds.

⁵ As noted in the CRA Board Memo dated June 17, 2010, attached hereto as Exhibit 1, the "acquisition and predevelopment loan is statutorily exempt from the provision of the California Environmental Quality Act (CEQA) pursuant to paragraph 15262 of the State CEQA Guidelines."

⁶ Loan Agreement: Coronel Apartments, by and between CRA/LA and HCHC (Sept. 29, 2010), at Paragraph 3.2(d)(5).

The LMANA Appeal also takes issue with a letter from LAHCID, dated July 16, 2014, which explained that an alternative project that does not require off-menu incentives would receive a “high cost” designation by the California Tax Credit Allocation Committee and would not be recommended for an award. This letter is by no means “bogus” or a sham as LMANA claims. Indeed, HCHC’s Cost Analysis confirmed that such an alternative project would receive a “high cost” designation, which means that the Project would not be able to secure low-income housing tax credits, which are the primary source of funding for affordable housing projects in California. See HCHC’s Cost Analysis and Justification for Entitlements, dated Nov. 18, 2014, at 2; see also Cal. Code Regs., tit. 4, § 10325(d). While LMANA does not like the fact that LAHCID agreed with and confirmed the conclusions of HCHC’s Cost Analysis, LMANA’s flippant assertions do not undercut LAHCID’s independent determinations.

Fourth, the LMANA Appeal tries to suggest that certain emails between the applicant and City staff regarding the scheduling of hearings for the Project were improper or otherwise demonstrate a bias toward the Project and against Project opponents. LMANA Appeal at 4-5. However, the emails cited by LMANA are nothing more than routine emails from an applicant who is working diligently to advocate for its Project and to get its long-stalled matter scheduled for public hearing, along with City staff’s responses to those inquiries and requests. Such emails are not indicative of any malfeasance or pre-commitment on the part of the City. For example, LMANA claims that a May 13, 2015, email to the applicant stating that the Project would be moved to the last item on the Planning Commission’s May 14, 2015, agenda put the applicant at an unfair advantage during the hearing. See also Bell Appeal at 3. However, this email – which was in response to a request from the applicant concerning hearing logistics – did not put the applicant at any unfair advantage. There was no way for the applicant to know that the other items on the Commission’s May 14, 2015, hearing agenda would take approximately 6 hours before the applicant’s matter could be heard. Accordingly, all of the Project’s supporters came to the Planning Commission’s hearing at 8:30 a.m., and most had to leave the hearing to go to work before the Project was considered by the Commission in the afternoon. Accordingly, the applicant was in the exact same position as the appellants who claim that several Project opponents had to leave the hearing before the Project was considered. LMANA’s attempts to cast doubt on the fairness of the City’s entitlement process have no merit, and are not supported by the routine correspondence attached to LMANA’s appeal.

Finally, the LMANA Appeals suggests that, because the EIR did not include a preservation alternative, “the Project as proposed is a foregone conclusion.” LMANA Appeal at 5. This argument has no merit. As described in Section IV, above, no preservation alternative was required because the Hobart Structure is not a historic resource. In addition, the EIR’s “No Project” Alternative did include retention of the Hobart Structure. See EIR, Section V.B.

The LMANA Appeal cites to *Natural Resources Defense Council v. City of Los Angeles*, 103 Cal.App.4th 268, 271 (2002) (“NRDC”), in support of its argument that approval of the Project was “predetermined.” NRDC, however, is wholly distinguishable. In NRDC, the City of Los Angeles entered into a legally-binding lease for the construction of a container terminal before conducting environmental review. *Id.* Here, as described above, the City Council has not entered into any similar agreement or commitment to a definite course of action concerning the Project.

VIII. HCHC HAS PROVIDED THE REQUIRED COST ANALYSIS AND JUSTIFICATION FOR THE REQUESTED ENTITLEMENTS

The appellants also continue to suggest that HCHC's documentation to justify the Project's requested density bonus incentives is insufficient. LMANA Appeal at 13; Zide Appeal at 1. These claims, which were also raised before the Hearing Officer, wholly lack merit.

Pursuant to LAMC Section 12.22.A25(g)(3)(i)(a), a developer requesting a Density Bonus must provide "a pro forma or other documentation to show that the waiver or modification of any development standard(s) are needed in order to make the Restricted Affordable Units economically feasible." Furthermore, as outlined in the Staff Report from the Project's March 27, 2015, Hearing Officer hearing, "[o]ff-menu density bonus cases. . . do not require explicit financial analysis in the form of cap rates, construction costs, operating income, funding analysis and expenses."

As allowed by the LAMC, HCHC provided the City with a detailed Cost Analysis, which is more comprehensive and better understood by people who are not affordable housing professionals, and those who may not know how to interpret a pro forma. In HCHC's Cost Analysis, HCHC compared the development cost of building the Project as proposed with one on-menu and five off-menu incentives, and a hypothetical Alternative Project with three on-menu incentives and no off-menu incentives. The Cost Analysis concluded that the Alternative Project would provide 20% fewer affordable units at a total cost that is approximately 23% more than the proposed Project.

Moreover, at the request of Planning Department staff, the Cost Analysis was independently peer reviewed by The Sotelo Group, a firm that specializes in providing real estate, finance, community outreach, and development services to government, non-profit, and for-profit entities. The Sotelo Group was selected based on a work sample that was provided to HCHC by City Planning in which The Sotelo Group evaluated a similar cost analysis submitted by AMCAL, who is also an affordable housing developer. Ms. Dalila Sotelo, Principal of The Sotelo Group, reviewed HCHC's Cost Analysis. Ms. Sotelo confirmed that the Cost Analysis "demonstrates that the project as proposed is financially feasible whereas the alternative development scenario is infeasible due to the increased costs and loss of funding." Accordingly, Ms. Sotelo concluded that "the waivers requested by [HCHC] are necessary to make the project financially feasible." Thus, ample evidence in the record supports the need for HCHC's requested density bonus incentives.

EXHIBIT 1



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Los Angeles / California 90013-1258

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CRA File No. 9212

Council District: 13

Contact Person: Neelura Bell
(213) 977-1906

Honorable Council of the City of Los Angeles
John Ferraro Council Chamber
200 N. Spring Street
Room 340, City Hall
Los Angeles, CA. 90012

COUNCIL TRANSMITTAL:

Transmitted herewith, is a Board Memorandum adopted by the Agency Board on June 17, 2010 for City Council review and approval in accordance with the "Community Redevelopment Agency Oversight Ordinance" entitled:

VARIOUS ACTIONS RELATED TO:

LOAN AGREEMENT WITH HOLLYWOOD COMMUNITY HOUSING CORPORATION FOR UP TO \$5,027,000 FOR ACQUISITION AND PREDEVELOPMENT ACTIVITIES RELATING TO 1601 NORTH HOBART AVENUE AND 1600-1608 NORTH SERRANO AVENUE IN THE EAST HOLLYWOOD/BEVERLY-NORMANDIE DISASTER ASSISTANCE AND HOLLYWOOD REDEVELOPMENT PROJECT AREAS

HOLLYWOOD & CENTRAL REGION (CD 13)

RECOMMENDATION

That City Council approve recommendation one on the attached Board Memorandum.

ENVIRONMENTAL REVIEW

The acquisition and predevelopment loan is statutorily exempt from the provision of the California Environmental Quality Act (CEQA) pursuant to paragraph 15262 of the State CEQA Guidelines. Upon completion of the feasibility analysis, and at the time of the anticipated request to convert the predevelopment loan to a permanent loan, the appropriate CEQA document for that proposal will be brought to the CRA/LA Board for consideration.

FISCAL IMPACT STATEMENT

The proposed action is consistent with the FY10 Budget and Work Program relating to the East Hollywood/Beverly-Normandie and Hollywood Redevelopment Project Areas. The approved FY10 Budget for Housing includes \$6,897,000 and \$23,972,800 for the East Hollywood/Beverly-Normandie and Hollywood Redevelopment Project Areas respectively. With the approval of this action, \$2,845,420 or 41% of the East Hollywood/Beverly-Normandie and \$9,820,448 or 41% of the Hollywood Redevelopment housing budget will be committed to housing projects. Sufficient funds are available to



make any legally required State ERAF payments. There is no impact on the City's General Fund.

DEADLINE FOR ACTION

The Chief Executive Officer, CRA/LA, respectfully request that this transmittal be expedited to HCED on June 23, 2010 and to the City Council on June 25, 2010 for review and approval in order to meet the escrow closing deadline.



Christine Essel, Chief Executive Officer

cc: Alan Alietti, Office of the City Clerk (Original & 3 Copies on 3-hole punch)
Lisa Johnson Smith, Office of the CAO
Ivania Sobalvarro, Office of the CLA
Bud Ovrom, Office of the Mayor
Larry Frank, Office of the Mayor
Steve Ongele, Office of the Mayor
Noreen Vincent, Office of the City Attorney
Council President Eric Garcetti, CD 13

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MEMORANDUM

DATE: JUNE 17, 2010 HW1990
EB1990

TO: CRA/LA BOARD OF COMMISSIONERS

FROM: CHRISTINE ESSEL, CHIEF EXECUTIVE OFFICER

RESPONSIBLE
PARTIES: LESLIE LAMBERT, REGIONAL ADMINISTRATOR
NEELURA BELL, PROJECT MANAGER

SUBJECT: LOAN AGREEMENT WITH HOLLYWOOD COMMUNITY HOUSING
CORPORATION FOR UP TO \$5,027,000 FOR ACQUISITION AND
PREDEVELOPMENT ACTIVITIES RELATING TO 1601 NORTH
HOBART AVENUE AND 1600-1608 NORTH SERRANO AVENUE IN
THE EAST HOLLYWOOD/BEVERLY-NORMANDIE DISASTER
ASSISTANCE AND HOLLYWOOD REDEVELOPMENT PROJECT
AREAS
HOLLYWOOD AND CENTRAL REGION (CD 13)

COMMITTEE
REVIEW: APPROVED BY THE LOAN COMMITTEE ON MAY 12, 2010

RECOMMENDATIONS

That the CRA/LA Board of Commissioners, subject to City Council review and approval:

1. Authorize the Chief Executive Officer or designee to execute a loan agreement with Hollywood Community Housing Corporation to loan up to \$5,027,000 for acquisition and predevelopment costs related to a potential affordable housing development at 1601 North Hobart Avenue and 1600-1608 North Serrano Avenue and to take necessary action to carry out the loan agreement; and

That the CRA/LA Board of Commissioners:

2. Approve and adopt a Relocation Plan for the potential project; and
3. Approve and adopt by resolution a Replacement Housing Plan for the potential project.

SUMMARY

The recommended action will provide an acquisition and predevelopment loan ("the Loan") in the amount of \$5,027,000 to Hollywood Community Housing Corporation (the "Borrower") to assemble two properties located at 1601 North Hobart Avenue and 1600-1608 North Serrano Avenue in connection with a potential affordable housing development consisting of approximately 54 units ("Project"). The Project site straddles and is within both the East

Hollywood/Beverly-Normandie Disaster Assistance Project Area and the Hollywood Redevelopment Project Area. Each of the redevelopment project areas will contribute a pro rata share of the loan based on the percentage of the total 32,504 square footage which is located in each area. The Hobart property, located in East Hollywood is 15,504 square feet comprising 46%, and the Serrano property, located in Hollywood is 17,500 square feet or 54%. Funding from the East Hollywood Disaster Assistance Project Area Budget will total \$2,312,420 including \$1,747,000 of project area Low and Moderate Income Housing Funds and \$565,420 from Taxable Bond Proceeds. Funding from the Hollywood Redevelopment Project Area will include \$2,714,580 of project area Low and Moderate Income Housing funds.

Acquisition costs total \$3,584,500 including a purchase price of \$3,485,000 and holding, legal, closing and title expenses of \$99,500. The \$1,442,500 balance of the loan will be used for predevelopment expenses, including \$400,000 in relocation expenses. The CRA/LA loan will be secured by a First Deed of Trust against the entire Project site.

Prior to the maturity of the CRA/LA acquisition loan in two years (subject to an extension by the CRA/LA CEO of up to one additional year), CRA/LA staff anticipates returning to the Board of Commissioners for approval of the final project, including without limitation: (a) conversion to a permanent loan; (b) authority to enter into an implementation agreement that would confirm the permanent loan conversion and update project specifics such as details of the scope of development and affordability covenants; and (c) authorization to provide subordination to Senior Lenders. In order for a Loan Conversion to be considered by the Board, the Developer must submit the final scope of the Project and staff's recommendation will be accompanied by the appropriate environmental impact analysis. Approval to grant the Loan Conversion will be within the sole discretion of the Board of Commissioners and may include the imposition of additional conditions in its sole discretion.

RE

Initial Action

SOURCE OF FUNDS

East Hollywood/Beverly Normandie Low and Moderate Income Housing Funds
East Hollywood/Beverly Normandie Taxable Bond Proceeds
Hollywood Low and Moderate Income Housing funds

PROGRAM AND BUDGET IMPACT

The proposed action is consistent with the FY10 Budget and Work Program relating to the East Hollywood/Beverly-Normandie and Hollywood Redevelopment Project Areas. The approved FY10 Budget for Housing includes \$6,897,000 and \$23,972,800 for the East Hollywood/Beverly-Normandie and Hollywood Redevelopment Project Areas respectively. With the approval of this action, \$2,845,420 or 41% of the East Hollywood/Beverly-Normandie and \$9,820,448 or 41% of the Hollywood Redevelopment housing budget will be committed to housing projects. Sufficient funds are available to make any legally required State ERAF payments. There is no impact on the City's General Fund.

ENVIRONMENTAL REVIEW

The acquisition and predevelopment loan is statutorily exempt from the provision of the California Environmental Quality Act (CEQA) pursuant to paragraph 15262 of the State CEQA Guidelines. Upon completion of the feasibility analysis, and at the time of the anticipated request to convert the predevelopment loan to a permanent loan, the appropriate CEQA document for that proposal will be brought to the CRA/LA Board for consideration.

BACKGROUND

The ultimate borrower for the CRA/LA loan will be a yet-to-be-formed California limited partnership. The limited partnership will be a single-asset entity whose sole purpose is the development and operation of the Coronel Apartments.

The sole general partner of the Borrower will be Hollywood Community Housing Corporation (HCHC), a California nonprofit corporation. HCHC was formed in 1989 for the purpose of preserving and expanding the supply of affordable housing for lower income households in the Hollywood area. It is now a very highly regarded developer and operator of affordable rental housing. In its 21-year operating history, HCHC has developed 23 buildings that serve 717 households. Over the years, HCHC has received numerous awards for the quality of its developments as well as for the outstanding support that it provides to its residents.

Over its 21-year operating history, HCHC has received CRA/LA financial support for numerous projects. All of those projects have been satisfactorily completed and are operating as agreed. Most recently, CRA/LA loaned an HCHC-controlled entity \$7.5 million for the rehabilitation of the Hollywood Bungalow Courts. HCHC recently completed construction on the 42-unit, scattered-site development and it is now fully leased.

Site Description

The properties comprising the project are situated back-to-back and are located right on the boundary between the Hollywood and East Hollywood/Beverly-Normandie Project Areas. The Serrano property is in Hollywood and the Hobart property is in East Hollywood/Beverly-Normandie. (Attachment "A", Site Map). The project site is L-shaped consisting of 3 contiguous parcels totaling 32,000 square feet. Parcel 1 located at 1600-1606 North Serrano Avenue has three structures with a total of four units, including a two story duplex, and two studio bungalows. Parcel 2 located at 1608 North Serrano Avenue is a two-story eleven unit building. Parcel 3 located at 1601 North Hobart Boulevard has two, two story buildings with 12 legal apartments and one illegal unit. Currently, 6 of the total 30 units are vacant.

Current zoning on the two sites is medium- and high-density residential (R3 and R4). The property is also located within the Vermont/Western Transit Oriented District Specific Plan/Station Neighborhood Area Plan (SNAP), and is within one-quarter mile of a Metro Red Line Station.

HCHC is proposing to acquire the properties and pursue the possible development of the site into improved quality housing. Currently, there are 30 units on the site. Units in the North Serrano property have been in the City of Los Angeles' Rental Escrow Account Program since 2005, and the North Hobart property has been cited by the County Department of Health for 18 violations. Additionally, many of the residents are currently residing in overcrowded conditions with as many as between four and seven residents occupying the mostly 1-bedroom units.

Property Appraisal

The proposed combined purchase price \$3,485,000 is consistent with the appraised value of the project parcels.

Proposed Project

By right, at least 47 units can be developed on the site. However, the Borrower is pursuing the feasibility of securing a density bonus and some entitlement exceptions that would allow for the potential development of up to 54 units.

Affordability Requirements

After the final determination of the most feasible option and the completion of an environmental document pursuant to CEQA, additional Board actions will be sought to approve the scope of the project and the inclusionary and proportionality analysis, and convert the predevelopment loan to a construction loan. The analysis below is based on the proposed maximum number of 54 units and the Borrower's preliminary unit mix.

The CRA/LA Housing Policy requires that a minimum of 30% of units developed be Very Low, and that at most 30% are Moderate Income. Attachment C illustrates that the proposed unit mix would meet the policy requirements.

Inclusionary Housing Analysis

The CRA/LA is required to comply with the inclusionary housing obligation imposed by Section 33413(b) of the California Community Redevelopment Law that requires 15% of all housing developed in a Project Area be low- and moderate-income housing subject to long term income and affordability covenants, of which 40% must be affordable to persons and families of very low-income. Based on the preliminary proposed unit mix shown in Attachment C, CRA/LA would be credited with 6 Extremely Low Units, 35 Very Low-Income Units, and 12 Low-Income Units. Currently, the Inclusionary Housing Obligations have been exceeded in both the East Hollywood/Beverly-Normandie and Hollywood Redevelopment Project Areas, and staff anticipates that the obligation will be satisfied and exceeded during the respective Implementation Plan periods for both areas. Attachment C shows that in East Hollywood, the obligation to produce a total of 34 low and moderate units has been exceeded by 119 and the Very Low obligation of 13 has been exceeded by 120. It shows that in Hollywood, the obligation to produce a total 376 low and moderate units has been exceeded by 263 and the Very Low obligation of 150 units has been exceeded by 273.

Proportionality Housing Analysis

Pursuant to the proportionality requirements of the California Community Redevelopment Law regarding the use of Low and Moderate Income Housing Funds (LMIHF), combined expenditures during the implementation plan must allocated funds based on the following requirements: (1) At least 45% to the Very Low Income category, (2) At least 26% to the Low Income category, (3) At most 29% to the Moderate Income Category, and (4) No more than 20% restricted to seniors. With the proposed expenditure and potential unit mix, Attachment C shows that in East Hollywood, the cumulative expenditure for Very-Low Income would be 70%, exceeding the 45% minimum, Low Income Housing would be 23% and slightly lower than the 26% minimum (however, the Very-Low Income can count in this category as well), and the

Moderate would be 6% significantly under the maximum allowable expenditure of 30%. Attachment C shows that in Hollywood, the cumulative expenditure for Very-Low Income would be 67%, exceeding the 42% minimum, Low Income Housing would be 31%, and slightly over the 26% minimum and Moderate would be 2% significantly under the maximum allowable expenditure of 30%.

Financing

This request for CRA/LA to provide \$5,027,000 is for 100% of the Acquisition and Predevelopment costs. It will be secured in part by a First Deed of Trust on the Hobart and Serrano properties. The loan-to-value will be 144%. The predevelopment expenses will be secured by assignment of rights of the architectural drawings and other work product to CRA/LA. The term of the Acquisition and Predevelopment loan will be for twenty-four (24) months from the date of the Note (subject to a one-year extension) with an annual interest rate of 3%.

Based on the Borrower's pro forma dated April 22, 2010, the total development cost for the proposed 54 maximum unit project is \$23,694,039 or \$438,778 a unit. The borrower has a successful track record of securing construction and permanent financing for similar projects. Other funding sources for which the Borrower intends to apply for include a Conventional First Mortgage, LAHD gap financing, equity financing from tax credit proceeds and an Affordable Housing Program grant.

Relocation and Replacement Plans

In anticipation of needing to displace the current tenants a Relocation Plan (Attachment D) was published on May 3, 2010 and copies were made available for public viewing at the CRA/LA Hollywood and Central offices, the Hollywood Branch of the public library and the East Hollywood Neighborhood Council. On May 24th, a presentation was made to the full council of the East Hollywood Neighborhood Council. Additionally, each of the current tenants was apprised of the availability of the document. The Replacement Housing Plan (Attachment E) was published on May 4, 2010, posted on the CRA/LA website.

Authority Granted to CEO or Designee

If the Loan Agreement is approved, the CRA/LA Chief Executive Officer or designee would be authorized to take such action as may be necessary to carry out the Agreement, including but not limited to, executing the CRA/LA Loan Documents and taking the following actions: (1) extending the Initial Term of the Loan by up to one additional year for a total not to exceed three years as provided in Section 3.2.d; and (2) approving revisions to the Project Budget, so long as the changes do not increase the amount of the CRA/LA Loan or otherwise have a material adverse impact on the feasibility of the project, as specified in Section 3.3.g and Section 3.9.

Christine Essel
Chief Executive Officer

By



Glenn F. Wasserman
Chief Operating Officer

There is no conflict of interest known to me to exist with regard to any CRA/LA officer or employee concerning this action.

Attachment A – Site Map

Attachment B – Predevelopment Budget

Attachment C - Inclusionary and Proportionality Analysis

Attachment D – Relocation Plan

Attachment E - Replacement Housing Plan

Attachment F – Resolution – Replacement Housing Plan