

MEMORANDUM

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DATE: JULY 3, 2008 C91950

TO: CRA/LA BOARD OF COMMISSIONERS

FROM: CECILIA V. ESTOLANO, CHIEF EXECUTIVE OFFICER

RESPONSIBLE PARTIES: DAVID RICCITIELLO, REGIONAL ADMINISTRATOR  
JENNY SCANLIN, PROJECT MANAGER  
KEVIN SULLIVAN, DIRECTOR OF BUSINESS OPERATIONS AND ASSET MANAGEMENT

SUBJECT: COOPERATION AGREEMENT WITH THE CITY OF LOS ANGELES, ACTING BY AND THROUGH THE LOS ANGELES HOUSING DEPARTMENT FOR THE OWNERSHIP, MANAGEMENT AND DISPOSITION OF THE DUNBAR HOTEL INCLUDING PAYMENTS TO THE LOS ANGELES HOUSING DEPARTMENT OF UP TO \$500,000 PER YEAR FOR APPROVED EXPENSES IN THE COUNCIL DISTRICT NINE CORRIDORS SOUTH OF THE SANTA MONICA FREEWAY RECOVERY REDEVELOPMENT PROJECT DOWNTOWN REGION (CD9)

RECOMMENDATION

1. That the CRA/LA Board of Commissioners, subject to City Council review and approval authorize the Chief Executive Officer, or designee, to execute a Cooperation Agreement (“Agreement”) with the City of Los Angeles, acting by and through the Los Angeles Housing Department (“LAHD”) to share responsibilities, costs and oversight in the ownership, management and disposition of the Dunbar Hotel in substantially the form attached to this memorandum and provide necessary funds to LAHD for LAHD contracted consultants in an amount not to exceed \$500,000 per year for activities directly related to the ownership, management and disposition of the Dunbar Hotel;
2. That the CRA/LA request the City Council to authorize the General Manager of the Los Angeles Housing Department, or designee, to enter into the Cooperation Agreement, accept and use the above referenced funds necessary for consultant-related services for the Dunbar Hotel, provide funds to CRA/LA for CRA/LA contracted consultants, and to authorize the Controller, if needed, to prepare appropriate budget instructions to implement the Cooperation Agreement.

SUMMARY

CRA/LA staff requests authorization to enter into a Cooperation Agreement (see Attachment “A”) with the City of Los Angeles’ Housing Department (“LAHD”) to own, manage and dispose of the Dunbar Hotel (see Attachment “B”) located in the Council District Nine Corridors South of the Santa Monica Freeway Recovery Redevelopment Project Area (“CD9 Project Area”). Under the proposed Agreement, LAHD will be responsible for, among other things, the management, maintenance and repair of the Dunbar Hotel (the “Property”). The CRA/LA will be responsible

for the Relocation Plan for all commercial and residential tenants on the Property as well as developing and administering the process for disposition of the Property.

In 1987, the CRA/LA and the City through its Community Development Department (“CDD”) jointly provided a loan in the principal amount of \$2,900,000 for the rehabilitation of the Dunbar Hotel, a historically significant building, and covenanted its use for affordable housing and a museum of the African American and Jazz history in the Central Avenue area. The CRA/LA provided \$1,200,000 and CDD provided \$1,700,000 of the original principal balance. LAHD has since assumed CDD responsibilities for monitoring the loan. The loan is in monetary default and a Notice of Sale has been issued by LAHD. CRA/LA and LAHD are the only lien holder on the property except for approximately \$40,000 in past due property taxes.

In the event Property ownership reverts back to CRA/LA and LAHD it is anticipated to take a maximum of two years to satisfactorily dispose of the Property to a new owner through a competitive process. During this period of joint public ownership, CRA/LA and LAHD staff felt it was critical to define a structure for responsibility and funding as it relates to the safe and sanitary management and maintenance of the Property as well as develop a process for any relocation of tenants that may be necessary and the ultimate disposition and redevelopment of the Property. The Cooperation Agreement provides both an outline for this shared responsibility and decision-making as well as a Schedule of Performance outlining the steps and timing for the actions which will lead to rehabilitating and redeveloping the Property as a community asset and continued affordable housing.

The CD9 Project Area has and will continue to prioritize and budget for costs associated with the relocation, management, maintenance and disposition activities related to this Property in this fiscal year as well as in future fiscal year budgets. The amount transferred by the CRA/LA to LAHD for contract work related to the management, maintenance and disposition of the Dunbar Hotel shall not exceed \$500,000 per year unless approved by the CRA/LA Board and City Council. All other budget expenditures related to the management and disposition of the Dunbar Hotel will follow the CRA/LA’s internal contracting rules and processes for outside vendors and contractors.

## RE

February 7, 2008 – Report to CRA/LA Board of Commissioners on Recording a Notice of Default Relating to the CRA/LA Loan for the Dunbar Hotel

December 6, 1989 – Actions Related to a First Amendment to Loan Agreement for the Dunbar Hotel Located at 4223-4225 S. Central Avenue

February 25, 1987 - Actions involving the Dunbar Hotel including a Memorandum of Understanding between CDD and CRA/LA and the execution of a Loan Agreement in an Amount not to Exceed \$2.9 million

August 20, 1986 – Finding of benefit to appropriate \$1,250,000 for Rehabilitation of the Historically Significant Dunbar Hotel

## SOURCE OF FUNDS

Housing Trust Funds

PROGRAM AND BUDGET IMPACT

There is no fiscal impact to the City's General Fund as a result of the recommended actions, unless LAHD utilizes General Funds for their portion of the costs. The expected annual property management and regular maintenance costs to CRA/LA are estimated not to exceed \$200,000, however, this amount does not include relocation or unexpected maintenance and repair issues. The proposed action is consistent with the adopted FY08 and the proposed FY09 Budget and Work Program which contemplates development and rehabilitation of affordable housing in the C9 Project Area.

ENVIRONMENTAL REVIEW

The proposed actions are not a project as defined by the California Environmental Quality Act ("CEQA").

BACKGROUND

In 1987 the CRA/LA and the City of Los Angeles entered into a Tri-Party Loan Agreement with the Dunbar Hotel Black Cultural and Historical Museum, Inc. ("Dunbar Museum") to finance the rehabilitation of the historically significant Dunbar Hotel. The hotel contains commercial and museum space on the ground floor and mezzanine and 72 single room occupancy residential units. The hotel is listed as a historically significant place on the National Register and has been designated a historic monument by the City of Los Angeles. The building had been identified as seismically deficient and rehabilitation included replacement and repair of major building systems and seismic reinforcement.

At the time that the Dunbar Hotel loan was made the project was not located in a redevelopment area and the loan was funded under the Citywide program utilizing Bunker Hill Replacement Housing Trust funds through a Finding of Benefit. The project is now within the boundaries of the Council District Nine Corridors South of the Santa Monica Freeway Recovery Redevelopment Project Area.

The combined City financial assistance to the project was \$2,900,000 and was funded as follows:

Community Development Department	\$1,700,000
CRA (Bunker Hill Housing Trust Funds)	1,200,000

The financial assistance was structured as a 30-year fully amortized loan at 4% interest. The monthly payments required under the loan were \$13,845 with payments split between the City and the CRA/LA based on their proportionate share of the funding. The joint City and CRA/LA loan was secured by a first trust deed recorded against the property. CDD and the CRA/LA entered into a Memorandum of Understanding which identified CDD as the lead agency in coordinating the project and monitoring compliance with the terms of the loan. With the creation of the Los Angeles Housing Department in the 1990s, CDD's responsibilities for the project were transferred to LAHD.

In 1988 Dunbar Museum conveyed the improvements on the property to Dunbar Apartment Partnership ("Dunbar Partnership"), a limited partnership for which Dunbar Economic Development Corporation ("Dunbar EDC") is the General Partner. LAHD and CRA/LA approved the transfer and a Consent to Transfer agreement was executed. The Consent to

Transfer held both the Partnership and Dunbar Museum jointly liable for the loan. The agreement between the Dunbar Partnership and the Dunbar Museum was evidenced by the execution of a long-term Ground Lease.

The borrower never made any payments under the loan. As early as 1994 the CRA/LA and LAHD began discussions with Dunbar EDC about the possibility of restructuring the loan as a residual receipts loan. LAHD was identified as the lead agency in these negotiations. No loan restructuring was ever finalized or approved.

In February 2005, CRA/LA and LAHD staff began the negotiation of a Forbearance Agreement with Dunbar EDC. LAHD and CRA/LA staff met with the borrower several times during these negotiations and requested additional information regarding the operation of the hotel. After reviewing the information provided by the borrower, concern was expressed regarding the borrower's financial capacity to qualify for a restructured loan. As a result, a Preliminary Notice of Default was issued on September 8, 2005.

On January 17, 2006 a proposed Forbearance Agreement was discussed with the CRA/LA Loan Committee. The initial draft Forbearance Agreement was for a period of six months and stipulated the appointment of a receiver at the end of that period if certain conditions were not met. The Loan Committee concurred with the staff recommendation. However, the borrower did not agree with the terms of the initial agreement and negotiations continued. The negotiations resulted in a revised Forbearance Agreement. The term of the forbearance period was for nine months as documented in a Schedule of Performance attached to the agreement. During the term of the agreement it was anticipated that a rehabilitation plan for repairs to the property and a financing plan that cured the loan default would be presented to the CRA/LA Board and City Council for approval. The final Forbearance Agreement was discussed and approved by the CRA/LA Loan Committee on September 26, 2006. The final Forbearance Agreement was not fully executed until December 22, 2006.

The major tasks identified in the Forbearance Agreement included:

- Requirement for monthly Status Reports
- Requirement for monthly Operating Statements
- Correction of Code Violations
- Requirement that day-to-day management of the property be in collaboration with a development partner or property management company acceptable to the City and CRA/LA.
- Execution of a Letter of Interest with a potential development partner or partners.
- Execution of a partnership agreement for the rehabilitation and long-term management of the property with a development partner acceptable to the City and CRA/LA.

While the Forbearance Agreement was executed by both the Dunbar Partnership and Dunbar Museum, as provided in the Ground Lease, Dunbar Partnership through its general partner Dunbar EDC was responsible for the day to day operations of the project and Dunbar EDC was the primary point of contact during the forbearance period and the party that provided the monthly status reports and monthly operating statements.

Dunbar EDC did meet some of the conditions required under the Forbearance Agreement. For example status reports and operating statements were provided on a regular basis. Furthermore, although the original deadline was missed and at one point the project was accepted in the City's Rent Escrow Account Program ("REAP"), code violations were corrected and the REAP case was closed after it was appealed by Dunbar EDC. In addition, Dunbar EDC

did enter into a Memorandum of Understanding with McCormack, Baron Salazar, Inc. (MBS) regarding the potential future development of the site. The MBS MOU also provided for some oversight of the day-to-day management of the project by Dunbar EDC.

Nevertheless, the MBS MOU did not provide the level of management oversight requested by the LAHD and CRA/LA and Dunbar EDC was never able to meet the requirements of the MOU to proceed further on a partnership agreement for the rehabilitation of the property. The deadline to enter into the partnership agreement passed in June 2007. On July 3, 2007 staff made an oral report to the Loan Committee on the status of the Forbearance Agreement. During the report staff indicated that, although the final requirement under the agreement had not been met, LAHD and CRA/LA staff were recommending that the City not yet exercise its remedies under the Agreement. The primary reason why staff did not recommend the immediate exercise of remedies related to concerns that issuing a Notice of Default might slow down the potential rehabilitation of the property. At that point, Dunbar EDC was in the process of submitting an application to LISC for predevelopment funding.

While staff was concerned that the issuance of a Notice of Default might hamper the eventual rehabilitation of the property, staff was equally concerned that the property was not being managed adequately. The Operating Statements provided by Dunbar EDC during the forbearance period caused grave concerns about Dunbar EDC's financial viability. Therefore, on July 5, 2007, a letter was sent to Dunbar EDC indicating that the City and CRA/LA were exercising their rights under the loan agreement to effectuate a change in the management of the property. In a spirit of cooperation the City and CRA/LA allowed Dunbar EDC to participate in the selection of the potential property manager by providing the LAHD the names of three possible management companies for consideration.

Dunbar EDC did provide the names of three independent property management companies for consideration. LAHD reviewed the qualifications of those firms and determined that all three firms were qualified to operate a property of the size and scope of the Dunbar Hotel. Dunbar EDC was notified that it could negotiate a contract with any of these firms but that LAHD needed to approve the contract before it was executed. The contract was to be executed by September 15, 2007 but Dunbar EDC never entered into a management contract with any of the three firms. Shortly before the deadline, Dunbar EDC indicated that it was negotiating a management contract with a firm not on the pre-approved list. LAHD and CRA/LA staff subsequently determined that the filing of a Notice of Default was necessary due to concerns about the day-to-day management of the property. With only 29 units in the building occupied and most of the unoccupied units in unsafe or deteriorated condition, the building's operating budget operating at a loss, Dunbar EDC's existing debts with DWP for building utilities, Dunbar EDC's inability to hire an independent third-party management, complaints from tenants about the deteriorating conditions of the building, the inability to secure a Partnership Agreement with MBS or develop a Finance and Rehabilitation Plan for the building, and the inability of the building's partners, Dunbar Museum and Dunbar Partnership (Dunbar EDC) about how to approach the redevelopment of the building, it appeared to staff appropriate to take this step.

LAHD received approval to file a Notice of Default ("NOD") and a Notice of Sale at an LAHD Hearing Committee on April 26, 2005. The CRA/LA authorization to file a Notice of Default was made by David Riccitiello, Regional Administrator, pursuant to the CRA/LA's Loan Monitoring Administrative Procedures, on September 28, 2007, based on a recommendation from Asset Management and the Project Manager. LAHD recorded the NOD on January 22, 2008. Filing of the Notice of Default was the first step in a non-judicial foreclosure process. As of April 22, 2008 the building partners had not cured the monetary loan default and the Notice of Default expired.

In March 2008, the Superior Court of California appointed a receiver to the property who has been managing the Dunbar Hotel on a daily basis and providing monthly reports to both LAHD and CRA/LA and a Notice of Sale was filed by LAHD in May 2008. A Trustee Sale may take place as early as the 21<sup>st</sup> day after the recording and publishing of the Notice of Sale with a minimum bid price of the accelerated principal balance of the loan with accrued interest. Because of the size of the City debt and the poor condition of the building, it is unlikely that anyone will bid the minimum amount needed to take possession of the property. In the event that no one bids the minimum bid price, the City and CRA/LA will become the owner of the property. This Cooperation Agreement assumes the City and CRA/LA will become owner of the property and provides a constructive outline for shared responsibility and funding related to this pending ownership and the ultimate disposition and redevelopment of the property.

Cecilia V. Estolano  
Chief Executive Officer

By

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Glenn F. Wasserman  
Chief Operating Officer

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

Attachment A - Draft Cooperation Agreement  
Attachment B - Location Map for Dunbar Hotel