



Legislation Text

File #: 12-0414, **Version:** 2

Community Development Agency, Administration & Finance Division, recommending the Board authorize the Chair to sign the Second Amendment to the Funding, Credit and Reimbursement Agreement between West Valley, LLC and the County to change the reimbursement terms for County repayment of cash advances from annually to not less than quarterly and to allow for other minor administrative revisions as required.

FUNDING: Silva Valley Interchange Traffic Impact Mitigation Fee Fund. (No Federal Funds)

DEPARTMENT RECOMMENDATION

Community Development Agency (CDA), Administration & Finance Division, recommending the Board authorize the Chair to sign the Second Amendment to the Funding, Credit and Reimbursement Agreement between West Valley, LLC and the County to change the reimbursement terms for County repayment of cash advances from annually to not less than quarterly and to allow for other minor administrative revisions as required.

DISCUSSION / BACKGROUND

On November 8, 2005 (Item 21), the Board approved a Funding, Credit and Reimbursement Agreement between West Valley, LLC and the County (Agreement), which established reimbursement terms for the repayment of any cash advances made by West Valley, LLC, as Developer, to fund the Silva Valley Interchange Project (Project).

A First Amendment to this Agreement was approved by the Board on April 10, 2012 (Item 17), which documented the County's modification of the 2004 General Plan Traffic Impact Mitigation Fee Program (Program) and addressed any resulting delays in reimbursement if the Program modifications resulted in insufficient cash flow to meet annual scheduled reimbursement payments.

This proposed Second Amendment to the Agreement would further modify the original Agreement as it pertains to Section 6, Silva Valley Interchange Improvements and Set Aside Fund. The original Agreement states that an annual payment will be made no later than March 1st of each year after the acceptance of the Project by the Board, and will be based on the available balance in the Silva Valley Interchange Traffic Impact Mitigation Fee Fund (SV TIM) until any cash advances made by West Valley, LLC, are reimbursed in full. This proposed Second Amendment would change the repayment frequency from a scheduled annual payment to payments made not less than quarterly, but still based on the available balance in the SV TIM account. This would have no fiscal impact to the County as the SV TIM account was established to solely fund and reimburse costs for the Project, but would allow West Valley, LLC, to be reimbursed for their cash advances made for the completion of the Project on a more timely basis.

Signing of the Second Amendment will also recognize a change in the Developer's authorized signatory, those authorized to sign on behalf of West Valley, LLC, to be Lennar Communities, Inc., a California corporation, Non-Member Manager.

Minor administration changes necessary to complete the Second Amendment are also requested.

ALTERNATIVES

The Board could direct CDA to make no changes to the approved Agreement, maintaining the original annual repayment schedule.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

N/A

CAO RECOMMENDATION

Chief Administrative Office concurs with staff's recommendations

FINANCIAL IMPACT

No change to Net County Cost will result from the recommended Section amendment. Approval of the proposed Second Amendment will allow the County to reimburse West Valley, LLC, in a more timely manner, as funds are available. Funds in the SV TIM account are generated from impact fees associated with development applications and are to be expended solely on repaying cash advances made by West Valley, LLC, to fund the Project.

CLERK OF THE BOARD FOLLOW UP ACTIONS

The Clerk of the Board will:

- 1) Have the Chair sign three (3) original copies of the Second Amendment to the Agreement; and
- 2) Retain one (1) signed original copy for the Board's records and provide two (2) signed original copies to CDA, Administration & Finance Division (one [1] for CDA's records and one [1] for delivery to West Valley, LLC).

STRATEGIC PLAN GOAL

Infrastructure

DEPARTMENT CONTACT

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