

MEETING DATE: 7/20/09

AGENDA ITEM: Approve the Agreement Amendment Reallocating the Remaining Costco Regional Traffic Mitigation Funds Toward the Admiralty Way between Fiji Way and Via Marina Improvement Project and/or the Washington Boulevard at Palawan Way Project

ATTACHMENTS

		<u>Pages</u>
1	Agreement No. 75401 Allocating the Remaining Costco Regional Traffic Mitigation Funds Toward the SR-90 Freeway Extension Project	1-4
2	Amendment No. 1 to Agreement No. 75401 Allocating the Remaining Costco Regional Traffic Mitigation Funds Toward the SR-90 Freeway Extension Project	5-8
3	LA City Council Motion approving a the Substance of Draft Amendment No. 1 to Agreement No. 75401	9-12

75401

CITY ORIGINAL

AGREEMENT

THIS AGREEMENT made and entered into by and amongst the CITY OF CULVER CITY, a municipal corporation in the County of Los Angeles, hereinafter referred to as "CULVER CITY"; the CITY OF LOS ANGELES, a municipal corporation in the County of Los Angeles, hereinafter referred to as "LOS ANGELES"; and the COUNTY OF LOS ANGELES, a political subdivision of the State of California, hereinafter referred to as "COUNTY":

WITNESSETH

WHEREAS, on June 24, 1998, CULVER CITY approved conditions for the development of the Costco project near the intersection of Lincoln and Washington Boulevards; and

WHEREAS, a Costco Regional Traffic Mitigation (RTM) Fund was established as part of those conditions; and

WHEREAS, CULVER CITY has One Million Five Hundred Fifteen Thousand Nine Hundred Forty-two and 00/100 Dollars (\$1,515,942.00) remaining in CULVER CITY'S RTM account; and

WHEREAS, on August 9, 2004, CULVER CITY authorized the allocation of monies remaining in CULVER CITY'S RTM account, plus interest accrued, to COUNTY to be used toward construction of the Marina Expressway (State Route 90) Connector Road project, herein referred to as "PROJECT"; and

WHEREAS, in a letter dated March 16, 2004, LOS ANGELES recommended the use of RTM monies for PROJECT; and

WHEREAS, COUNTY is claiming the RTM monies to be used to finance a portion of the construction costs of PROJECT; and

WHEREAS, this AGREEMENT is authorized and provided for by CULVER CITY'S "Conditional Use Permit No. 97-01," Condition No. 59, approved by CULVER CITY'S Planning Commission on July 24, 1998.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by CULVER CITY, LOS ANGELES, and COUNTY and of the promises herein contained, it is hereby agreed as follows:

(1) CULVER CITY AGREES:

- a. To allocate monies remaining in CULVER CITY'S Costco RTM account to COUNTY, upon CULVER CITY approval of COUNTY'S plans and cost estimate for PROJECT.

- b. Upon demand by COUNTY, to transfer to COUNTY One Million Five Hundred Fifteen Thousand Nine Hundred Forty-two and 00/100 Dollars (\$1,515,942.00), plus any interest accrued, of Costco RTM funds. Said demand will consist of a billing invoice prepared by COUNTY.

(2) LOS ANGELES AGREES:

- a. To authorize the use of RTM monies for PROJECT.

(3) COUNTY AGREES:

- a. To utilize the Costco RTM funds to finance a portion of the construction cost of PROJECT.
- b. To notify CULVER CITY in writing if PROJECT is cancelled.

(4) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a. That all Costco RTM monies allocated to COUNTY must be expended prior to June 17, 2010. If commencement of construction of PROJECT is delayed beyond June 17, 2009, COUNTY may demand Costco RTM monies to reimburse COUNTY expenditures on other phases of PROJECT including, but not limited to, preparation of the environmental document and right-of-way property acquisitions. COUNTY shall provide CULVER CITY with invoices for CULVER CITY'S review and approval prior to CULVER CITY'S release of reimbursement for these phases.
- b. After June 17, 2010, any unspent or unallocated monies shall be returned to CULVER CITY within ninety (90) days.
- c. This AGREEMENT may be amended or modified only by mutual written consent of COUNTY, LOS ANGELES, and CULVER CITY. Amendments and modifications of a nonmaterial nature may be made by the mutual written consent of CULVER CITY'S and COUNTY'S Directors of Public Works and LOS ANGELES' General Manager of Los Angeles Department of Transportation, or their delegates.
- d. COUNTY'S written notification to CULVER CITY that PROJECT is cancelled will terminate this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF CULVER CITY on August 9, 2004; by the CITY OF LOS ANGELES on April 28, 2005; and by the COUNTY OF LOS ANGELES on OCTOBER 11, 2005.

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer of the
Board of Supervisors of
the County of Los Angeles



By _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By [Signature]
Deputy

CITY OF LOS ANGELES
DEPARTMENT OF TRANSPORTATION

By [Signature]

CITY OF CULVER CITY

By [Signature]
STEVEN J. ROSE, Mayor

ATTEST:

By [Signature]
City Clerk

COUNTY OF LOS ANGELES

By [Signature]
Chair, Board of Supervisors

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

54 OCT 11 2005

[Signature]
VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

Approved

April 28, 2005
ROCKARD J. DELGADILLO, City Attorney

By [Signature]

APPROVED AS TO FORM:

By [Signature]
for City Attorney

AMENDMENT NO. 1 TO AGREEMENT NO. 75401

THIS AMENDMENT NO. 1 to AGREEMENT NO. 75401, made and entered into by and amongst the CITY OF CULVER CITY, a municipal corporation in the County of Los Angeles (hereinafter referred to as CULVER CITY); the CITY OF LOS ANGELES, a municipal corporation in the County of Los Angeles (hereinafter referred to as LOS ANGELES); and the COUNTY OF LOS ANGELES, a political subdivision of the State of California (hereinafter referred to as COUNTY); all referred to collectively as the PARTIES.

WITNESSETH

WHEREAS, COUNTY entered into AGREEMENT NO. 75401 in 2005 with CULVER CITY and LOS ANGELES to receive an allocation in the amount of One Million Five Hundred Fifteen Thousand Nine Hundred Forty-two and 00/100 Dollars (\$1,515,942.00), plus any interest accrued from CULVER CITY'S Costco Regional Traffic Mitigation (RTM) Account for the construction of the Marina Expressway (State Route 90) Connector Road Project; and

WHEREAS, the Marina Expressway (State Route 90) Connector Road Project has been delayed and it is unknown when construction will occur; and

WHEREAS, the Admiralty Way between Fiji Way and Via Marina improvement projects are a series of projects that include improvements at each intersection along Admiralty Way between Fiji Way and Via Marina; and

WHEREAS, the Washington Boulevard at Palawan Way project includes improvements at the intersection of Washington Boulevard and Palawan Way; and

WHEREAS, the PARTIES propose to substitute the Marina Expressway (State Route 90) Connector Road Project with the Admiralty Way between Fiji Way and Via Marina improvement projects and/or the Washington Boulevard at Palawan Way project in the AGREEMENT.

NOW, THEREFORE, the PARTIES mutually agree to amend AGREEMENT NO. 75401 as follows:

1. In AGREEMENT NO. 75401, the term PROJECT is amended and redefined in Sections 1, 2, 3, and 4 as the Admiralty Way between Fiji Way and Via Marina improvement projects and/or the Washington Boulevard at Palawan Way project.
2. Replace Section 1, Paragraph (a) with the following:
 - a. To allocate monies remaining in CULVER CITY'S Costco RTM account to COUNTY for PROJECT.

3. Replace Section 4, Paragraph (a) with the following:

- a. That all Costco RTM monies allocated to the COUNTY must be expended prior to June 17, 2010. If commencement of construction of PROJECT is delayed beyond June 17, 2010, or if COUNTY has not expended all of the RTM monies on the construction of PROJECT by June 17, 2010, COUNTY may use Costco RTM monies to reimburse COUNTY expenditures on other phases of PROJECT, including, but not limited to, preparation of the environmental documents, preliminary engineering, and right-of-way property acquisitions.

3. Replace Section 4, Paragraph (e) with the following:

- e. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CULVER CITY:

Mr. Charles Herbertson
Director of Public Works
City of Culver City
9770 Culver Boulevard
Culver City, CA 90232-0507

LOS ANGELES:

Ms. Rita L. Robinson
General Manager
Los Angeles Department of Transportation
7166 West Manchester Avenue
Los Angeles, CA 90045

COUNTY:

Ms. Gail Farber
Director of Public Works
County of Los Angeles
Department of Public Works
P.O. Box 1460
Alhambra, CA 91802-1460

In all other respects, the provisions of AGREEMENT NO. 75401 shall remain in effect.

//
//

IN WITNESS WHEREOF, the parties hereto have caused this AMENDMENT NO. 1 to be executed by their respective officers, duly authorized, by the CITY OF CULVER CITY on _____, 2009; by the CITY OF LOS ANGELES on _____, 2009; and by the COUNTY OF LOS ANGELES on _____, 2009.

COUNTY OF LOS ANGELES

ATTEST:

SACHI A. HAMAI
Executive Officer of the
Board of Supervisors of the
County of Los Angeles

By _____
Chairman, Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN
Acting County Counsel

By _____
Deputy

CITY OF LOS ANGELES
DEPARTMENT OF TRANSPORTATION

By _____

IN WITNESS WHEREOF, the parties hereto have caused this AMENDMENT NO. 1 to be executed by their respective officers, duly authorized, by the CITY OF CULVER CITY on _____, 2009; by the CITY OF LOS ANGELES on _____, 2009; and by the COUNTY OF LOS ANGELES on _____, 2009.

CITY OF CULVER CITY

By _____
City Manager

ATTEST:

By _____
City Clerk

By _____
City Attorney

MOTION

In 2005 the Department of Transportation entered into an agreement with Culver City and the County of Los Angeles (County Agreement No. 75401) to authorize the use of traffic mitigation funds provided by the development of a Costco project near the intersection of Lincoln and Washington near Council District 11. The funds were to be used toward the construction of the Marina Expressway Connector Road project.

The Marina Expressway Connector Road Project has been delayed, it is unknown when construction will occur, and alternate use of these funds has been proposed to construct the Via Marina and Admiralty Way Reconfiguration Project - a regional transportation improvement project.

Action is needed to approve the necessary amendment to this agreement in order to substitute the Via Marina and Admiralty Way Reconfiguration Project for the Marina Expressway Connector Road project and to provide the County a one-year extension (to June 17, 2011) to the deadline by which the County is required to spend the Costco mitigation funds.

I THEREFORE MOVE that the Department of Transportation be authorized to negotiate and execute an amendment to County Agreement No. 75401 between the City of Los Angeles, the County of Los Angeles and Culver City in order to substitute the Via Marina and Admiralty Way Reconfiguration Project for the Marina Expressway Connector Road project and to provide the County a one-year extension to the deadline by which the County is required to spend Costco mitigation funds, substantially in conformance with the attached draft agreement, and subject to the approval of the City Attorney as to form and legality.

PRESENTED BY:

BILL ROSENDAHL

Councilman, 11th District

OCT 3 2008

SECONDED BY:

ak

AA3

08-2669

AMENDMENT No.1 To AGREEMENT No. 75401

THIS AMENDMENT No. 1 TO AGREEMENT No. 75401, made and entered into by and amongst the CITY OF CULVER CITY, a municipal corporation in the County of Los Angeles (hereinafter referred to as CULVER CITY); the CITY OF LOS ANGELES, a municipal corporation in the County of Los Angeles (hereinafter referred to as LOS ANGELES); and the COUNTY OF LOS ANGELES, a political subdivision of the State of California (hereinafter referred to as COUNTY); referred to collectively as the PARTIES.

WITNESSETH

WHEREAS, COUNTY entered into AGREEMENT No. 75401 in 2005 with CULVER CITY and LOS ANGELES to receive an allocation in the amount of One Million Five Hundred Fifteen Thousand Nine Hundred Forty-two and 00/100 Dollars (\$1,515,942.00) plus any interest accrued from CULVER CITY'S Costco Regional Traffic Mitigation (RTM) Account for the construction of the Marina Expressway (State Route 90) Connector Road Project; and

WHEREAS, the Marina Expressway (State Route 90) Connector Road Project has been delayed and it is unknown when construction will occur; and

WHEREAS, the Via Marina and Admiralty Way Reconfiguration Project is a regional transportation improvement project; and

WHEREAS, the Via Marina and Admiralty Way Reconfiguration Project can be constructed prior to June 17, 2011; and

WHEREAS, COUNTY had until June 17, 2010, to expend the RTM monies; and

WHEREAS, the PARTIES are willing to provide COUNTY with a one-year extension until June 17, 2011 to expend the Costco RTM monies; and

WHEREAS, the PARTIES agree to substitute the Marina Expressway (State Route 90) Connector Road Project with the Via Marina and Admiralty Way Reconfiguration Project in the AGREEMENT.

NOW, THEREFORE, CULVER CITY, LOS ANGELES, and COUNTY mutually agree to amend AGREEMENT No. 75401 as follows:

1. In AGREEMENT No. 75401, the term PROJECT is amended and redefined in Sections 1, 2, 3, and 4 as the Via Marina and Admiralty Way Reconfiguration Project.
2. Replace Section 4, Paragraph (a) and Paragraph (b) with the following:
 - a. That all Costco RTM monies allocated to the COUNTY must be expended prior to June 17, 2011. If commencement of construction of PROJECT is delayed beyond June 17, 2010, COUNTY may demand Costco RTM monies

to reimburse COUNTY expenditures on other phases of PROJECT including, but not limited to, preparation of the environmental document, preliminary engineering and right-of-way property acquisitions. COUNTY shall provide CULVER CITY with invoices for CULVER CITY'S review and approval prior to CULVER CITY'S release of reimbursement for these phases.

- b. After June 17, 2011, any unspent or unallocated monies shall be returned to CULVER CITY within ninety (90) days.

3. Replace Section 4, Paragraph (e) with the following:

- e. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CULVER CITY:

Mr. Charles Herbertson
Director of Public Works
City of Culver City
9770 Culver Boulevard
Culver City, CA 90232-0507

LOS ANGELES:

Ms. Rita L. Robinson
General Manager
Los Angeles Department of Transportation
7166 West Manchester Avenue
Los Angeles, CA 90045

COUNTY:

Mr. Dean D. Efstathiou
Acting Director of Public Works
County of Los Angeles
Department of Public Works
P.O. Box 1460
Alhambra, CA 91802-1460

In all other respects, the provisions of AGREEMENT No. 75401 shall remain in effect.

//
//
//

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF CULVER CITY on _____, 2008; by the CITY OF LOS ANGELES on

_____, 2008; and by the COUNTY OF LOS ANGELES on
_____, 2008.

COUNTY OF LOS ANGELES

ATTEST:

SACHI A. HAMAI
Executive Officer of the
Board of Supervisors of the
County of Los Angeles

By _____
Chair, Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By _____
Deputy

CITY OF LOS ANGELES
DEPARTMENT OF TRANSPORTATION

CITY OF CULVER CITY

By _____

By _____
City Manager

ATTEST:

By _____
City Clerk

By _____
City Attorney

P:\pdpub\Federal\STATE\PROJECTS\Agreements\County_Culver_LA_Amend_Agmt_75401.d
oc