



Albemarle County

Legislation Details (With Text)

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Title: First Amendment to the Promissory Note for the Lewis & Clark Exploratory Center
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Date	Ver.	Action By	Action	Result
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AGENDA DATE: 2/8/2017

TITLE:

First Amendment to the Promissory Note for the Lewis & Clark Exploratory Center

SUBJECT/PROPOSAL/REQUEST: Re-approve fifth loan extension for Lewis & Clark Exploratory Center

ITEM TYPE: Consent Action Item

STAFF CONTACT(S): Walker, Kamptner, Catlin

PRESENTER (S): N/A

LEGAL REVIEW: Yes

REVIEWED BY: Douglas C. Walker

BACKGROUND: On April 3, 2013, the Board of Supervisors approved an appropriation of \$130,000.00 in CIP fund balance to the Economic Development Authority (EDA) for the purpose of funding a loan for the Lewis and Clark Exploratory Center (LCEC), subject to conditions. A complete explanation of the loan, its conditions, and the repayment history is provided in the attached July 6, 2016 executive summary (Attachment A).

On July 6, 2016, the Board approved the First Amendment to the Promissory Note, which extended LCEC's repayment of the loan until December 31, 2016.

STRATEGIC PLAN:

Infrastructure Investment: Prioritize, plan and invest in critical infrastructure that responds to past and future changes and improves the capacity to serve community needs.

Educational Opportunities: Provide lifelong learning opportunities for all our citizens.

DISCUSSION: The County-EDA agreement pertaining to the LCEC loan allows its repayment to be extended

on approval by the Board and the EDA. The EDA-LCEC promissory note also allows for extensions. Although the July 6, 2016 executive summary recommended that the Board extend repayment of the loan to December 31, 2016, which the Board approved, the draft amendment to the promissory note attached to the executive summary was an early draft that had a December 31, 2017 repayment date. The error was compounded when staff circulated that same version of the amendment for signature to LCEC. When the amendment was presented to the County Attorney's Office for review, the error was identified and the amendment was not approved as to form by the County Attorney or executed by the EDA. In communications between County staff and LCEC representatives this fall, and from statements LCEC representatives made when they updated the Board on LCEC's activities on December 7, 2016, it was evident that it was their understanding that their repayment deadline had been extended to December 31, 2017, not December 31, 2016.

At its January 17, 2017 meeting, the EDA approved extending the repayment deadline to December 31, 2017. Two versions of a new draft of the First Amendment to the Promissory Note, with a repayment deadline of December 31, 2017, are attached. Attachment B identifies the changes made to the text in the original Promissory Note, and Attachment C is a clean version for the Board's approval. The LCEC has made the quarterly payments required to date under Section 1(A) of the First Amendment to the Promissory Note.

BUDGET IMPACT: The extension of the loan payment deadline further delays the return of the funding to the County's Capital Improvement Program.

RECOMMENDATION:

Staff recommends that the Board approve the attached First Amendment to the Note of the Lewis & Clark Exploratory Center of Virginia, Inc. (Attachment C) to extend the repayment of the loan to December 31, 2017.

ATTACHMENTS:

A - July 6, 2016 Executive Summary

B - First Amendment to the Note showing changes

C - First Amendment to the Note incorporating changes for approval