CRA/LA, A DESIGNATED LOCAL AUTHORITY
(Successor Agency to the Community Redevelopment Agency of the City of Los Angeles, CA)

MEMORANDUM

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DATE: JANUARY 17, 2013 MD2710
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TO: GOVERNING BOARD ROPS #1533

FROM: CHRISTINE ESSEL, CHIEF EXECUTIVE OFFICER

STAFF: BARRON MCCOY, SENIOR OPERATIONS OFFICER
DANIEL KAHN, SENIOR REAL ESTATE DEVELOPMENT AGENT

SUBJECT: **DISTRICT SQUARE OWNER PARTICIPATION AGREEMENT – NON-MONETARY APPROVAL.** AUTHORIZE EXECUTION OF ESTOPPEL AND AMEND CERTAIN PROVISIONS OF OWNER PARTICIPATION AGREEMENT WITH DISTRICT SQUARE, LLC FOR THE DEVELOPMENT OF THE DISTRICT SQUARE RETAIL PROJECT LOCATED AT 3570-3670 CRENSHAW BOULEVARD IN THE MID-CITY RECOVERY REDEVELOPMENT PROJECT AREA
(SD2; CD10)

RECOMMENDATION(S)

That the Governing Board authorize the Chief Executive Officer or designee to execute:

1. An estoppel between District Square, LLC ("Developer"), Target, and CRA/LA; and

2. The First Amendment to the Owner Participation Agreement ("OPA") with Developer for the District Square Retail Project ("Project") and to take any action necessary to implement the First Amendment, which provides for, among other things, amendments to (i) the permanent jobs – local hiring program, (ii) permitted transfers, (iii) conditions precedent to note delivery – evidence of indemnity, (iv) schedule of performance, (v) substitution of anchor tenant, and (vi) revisions to the promissory note.

SUMMARY

The purpose of the proposed Estoppel is to clarify the relationship of Target, the Developer and CRA/LA to the OPA. Target, which is leasing 150,000 square feet, is the largest of the two Project anchor tenants. In Target's letter of December 3, 2012 to CRA/LA staff, Attachment "A", Target expresses concerns about how the OPA may apply to it. The Estoppel makes it clear that Target is not a party to the OPA.

The First Amendment to the OPA includes, among other things, amendments to Exhibit F, the Permanent Jobs - Local Hiring Program; Section 7.4(d), Permitted Transfers; Section 3.2(b), Conditions Precedent to Note Delivery – Evidence of Indemnity; Exhibit C, the Schedule of Performance; Section 10.25, Substitution for Ralphs; and Exhibit G, Promissory Note. These changes are critical to preserving Target's participation in the District Square Project.

The primary purpose of amending Exhibit F, the Permanent Jobs—Local Hiring Program ("Hiring Program") is to strengthen and clarify the procedures for how community and low-income residents will be hired.

The amendment to Section 7.4(d) is in response to Target's letter, Attachment "A." As set forth in OPA Section 7.4(d), Permitted Transfers, Developer is required to obtain CRA/LA's prior written approval for the leasing of either one of the two anchors tenant spaces. As proposed in the First Amendment, this condition will terminate one day after the Target store opens for business.

Section 3.2(b), Conditions Precedent to Note Delivery, requires Developer to submit to CRA/LA (i) any and all reports and documents relating to existing contamination and any other hazardous materials on the property, (ii) written evidence showing that the Developer is fully indemnified in writing by a third party for all costs relating to the remediation of any hazardous materials on the property, and (iii) written evidence showing that the third party indemnitor has the financial means to fully honor the indemnity. As proposed in the First Amendment, part (iii) of the requirement is eliminated. Developer has submitted evidence showing it is indemnified by a third party, Crenshaw Park. Crenshaw Park has stated that it will not release any financial information to the Developer. Therefore, Developer cannot functionally satisfy this part of the condition. However, Project funding sources include a HUD Section 108 Loan in the amount of approximately $22,500,000 and a construction loan from Wells Fargo in the amount of approximately $34,500,000. The commitment of financing made by HUD and Wells Fargo is predicated on their assessments that the property will be remediated. In addition, CRA/LA's funding commitment is contingent on completion of the Project. If remediation does not occur, CRA/LA will not be required to provide the assistance.

As to the Schedule of Performance, the Developer has been working diligently to meet the obligations set forth in the OPA by the dates set forth in the Schedule of Performance. However, delays have occurred as a result of the prolonged downturn in the economy, which has significantly slowed the pace at which the Developer has been able to secure financing. As reflected in the revised Schedule of Performance, the Developer will evidence funds in the amount equal to one hundred percent (100%) of Project funding by April 1, 2013. Toward that end, the Developer has secured New Markets Tax Credit allocations from Wells Fargo ($8,000,000) and the Los Angeles Development Fund ($10,000,000). Construction is expected to commence no later than April 30, 2013.

Section 10.25, Substitution for Ralphs, requires the Developer to obtain CRA/LA approval to substitute Ralphs, an anchor tenant, with one or more tenants. The Developer is substituting Burlington Coat Factory for Ralphs. At approximately 60,000 square feet, Burlington Coat Factory will occupy the same amount of square footage as Ralphs and all requirements set forth in the OPA relating to Ralphs will be applicable to Burlington Coat Factory. Ralphs was anticipated to be a tenant in the Project at the time the OPA was executed. However, negotiations between Ralphs and the Developer ended after Ralphs decided to expand an existing store located one mile west at La Brea Avenue and Rodeo Road.

To reflect the changes to the process for the collection and distribution of property taxes following AB x1 26 (2011) and AB 1484 (2012) (collectively, the "Dissolution Legislation"), the promissory note attached to the original agreement must be revised. In particular, the original form of promissory note contemplated that the Community Redevelopment Agency of the City of Los Angeles, California, a public body, corporate and politic ("Former Agency") would deposit funds into the "Low and Moderate Income Housing Fund" and that there would be "Pledged AB 1290 Funds" to be used for payment to the developer. With the enactment of the Dissolution

Legislation, the obligation to fund the "Low and Moderate Income Housing Fund" was abolished. In addition, since a 2011 action by the City of Los Angeles, CRA/LA no longer retains AB 1290 funds. The First Amendment deletes the original form of the promissory note and replaces that promissory note, with a new form of promissory note to reflect the process by which CRA/LA will reimburse the Developer.

DISCUSSION & BACKGROUND

On March 18, 2011, the CRA/LA and Developer entered into an OPA for the construction of the District Square Retail Project, a 296,567 square-foot, two-story, retail shopping center located on approximately six and one-half (6½) acres and bounded by Crenshaw Boulevard on the west, Rodeo Road to the north, Norton Avenue to the east, and Coliseum Boulevard to the south as shown on Attachment "B".

The OPA, among other things, obligates the CRA/LA to provide to the Developer a promissory note in the original principal amount of up to $6,500,000, pledging net site specific tax increment funds in order to reimburse the Developer for certain publicly-owned improvement costs and building foundation costs. The CRA/LA is not providing the Developer with any upfront financial assistance. Rather, the CRA/LA is pledging future net Site Specific Tax Increment ("SSTI"). The financial assistance is evidenced by a promissory note ("Note") in the principal amount of up to $6,500,000. The Note carries an interest rate of six percent (6%) per annum, compounding annually, and a term expiring in 2042 unless the Note is repaid prior to this date. If SSTI is not generated by the Project to repay the Note, the balance is forgiven in 2042. Payments on the Note are subject to various conditions precedent, including the completion of the Project and certification of actual costs incurred by the Developer.

The purpose of the Estoppel and the First Amendment is to help ensure the completion of the Project; and thus far, Developer has made significant progress moving the Project forward.

SOURCE OF FUNDS

No additional funds are required for this action.

ROPS AND ADMINISTRATIVE BUDGET IMPACT

The recommended action is consistent with AB1x-26 in that the Governing Board, as successor agency, is vested with all rights, powers, duties and obligations of the former redevelopment agency, which would include the power to amend certain non-financial provisions of the OPA and to continue to oversee development of projects until they are completed or the contractual obligations may be transferred to other parties. The District Square Retail Project is listed on the adopted ROPS 1 as ROPS Item #1533.

ENVIRONMENTAL REVIEW

The City was the lead agency for the proposed project for purposes of the California Environmental Quality Act (CEQA). On June 23, 2010, the City of Los Angeles approved the project and adopted the MND. On July 1, 2010, CRA/LA's Board of Commissioners, as a Responsible Agency under CEQA, considered the environmental effects of the Project and adopted the Responsible Agency Resolution No. 7496. No further environmental review is

required as there are not any changes in the project that would result in any physical changes in the environment.

Christine Essel
Chief Executive Officer

By:

David Riccitiello
Chief Operating Officer

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

Attachments

Attachment A: Target letter
Attachment B: Location/Site Map

Attachment A

December 3, 2012

Mr. Barron McCoy, Senior Operations Officer
CRA/LA, a Designated Local Authority
1200 W. 7th Street, Suite 200
Los Angeles, California 90017

Re: District Square

Dear Mr. McCoy:

This letter is in response to your questions regarding Target's participation in the District Square project. As used in this letter, "Target Premises" refers to any space that Target leases or occupies within the District Square project.

While Target is very interested in seeing the District Square project move forward and has committed considerable resources to help that happen, we cannot proceed unless the current draft amendment of the OPA Amendment is supplemented to incorporate the points in your correspondence of October 23, 2012 (which we received a few days ago) and the remaining terms outlined in the draft amendment we provided this summer. In sum, Target cannot proceed unless (1) the OPA is amended to: (a) eliminate the explicit or implicit restrictions in the current OPA on Target's ability to assign or modify its lease that are broader than the restrictions in Target's lease; and (b) confirm that the OPA, as amended, will not impose any liabilities, restrictions or obligations on Target or the Target Premises other than those outlined in the draft amendment we provided this summer; and (2) an amended Covenant in accordance with the foregoing is recorded against the project (including the Target Premises).

We hope you will share our belief that Target's participation in District Square has the potential to create significant public benefits and that we endeavor with each Target store to be an exemplary corporate citizen and to meet or exceed the expectations of our public partners. That, in essence, is why we believe it is essential for CRA/LA, Target and the community that we have a shared understanding, in advance, of CRA/LA's expectations with respect to Target and the Target Premises, and that we explicitly memorialize that shared understanding in the OPA and covenant documentation. We will forward a proposed OPA Amendment to you as soon as possible that attempts to accomplish this.

Please don't hesitate to call me directly should you have any questions about our position in this matter.

Very truly yours,

TARGET CORP.

Brandon Lee

Real Estate Manager

MidCity Corridors

Redevelopment Project

3570-3670 Crenshaw Boulevard

Attachment B - District Square Aerial Site Map

CRA / LA
Community Redevelopment Agency
City of Los Angeles