THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES, CALIFORNIA

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M E M O R A N D U M

DATE: MAY 20, 2010
MD2020

TO: CRA/LA BOARD OF COMMISSIONERS

FROM: CALVIN E. HOLLIS, INTERIM CHIEF EXECUTIVE OFFICER

RESPONSIBLE PARTIES: LESLIE LAMBERT, REGIONAL ADMINISTRATOR
MICHELLE BANKS-ORDONE, PROJECT MANAGER
DAN KAHN, SENIOR REAL ESTATE DEVELOPMENT AGENT

SUBJECT: SECOND AMENDMENT TO OWNER PARTICIPATION AGREEMENT WITH CIM/PICO, L.P., TO PROVIDE UP TO AN ADDITIONAL $2,000,000 (FROM A TOTAL OF $14,322,000 TO $16,322,000, PLUS INTEREST, OF CRA/LA FINANCIAL ASSISTANCE IN VARIOUS FORMS) FOR THE MIDTOWN CROSSING PROJECT LOCATED AT 4550-4650 WEST PICO BOULEVARD
MID-CITY RECOVERY REDEVELOPMENT PROJECT AREA
HOLLYWOOD & CENTRAL REGION (CD 10)

COMMITTEE REVIEW: RECOMMENDED BY LOAN COMMITTEE ON APRIL 28, 2010

RECOMMENDATIONS

That the CRA/LA Board of Commissioners, subject to City Council review and approval:

1. Authorize the Chief Executive Officer or designee to execute a Second Amendment to the Owner Participation Agreement ("Second Amendment") with CIM/PICO, L.P. ("Developer"), for the Midtown Crossing commercial redevelopment project ("Project") and to take any action necessary to implement the Second Amendment, which amendment provides for, among other things, a payment of up to $2,000,000 for public improvement costs; and

2. Authorize the imposition of the CRA/LA's Construction Careers and Project Stabilization Policy only on that portion of phase two of the Project, the construction costs for which will be reimbursed by up to $2,000,000 of CRA/LA funds pursuant to the Second Amendment; and

3. Amend the FY10 budget and work program to transfer $537,000 from budgeted item "Commercial and Industrial", $863,000 from "Development Opportunities" and $100,000 from "Community Facilities and Program" to budgeted line item "Public Improvements"; and

4. Authorize the Chief Executive Officer or designee to apply for a U.S. Department of Commerce Economic Development Administrative Grant ("EDA Grant") in the amount up to $1,000,000 for the purpose of reimbursing the CRA/LA for a portion of the financial assistance it is providing under the Second Amendment.

SUMMARY

In 2006, the CRA/LA Board approved an Owner Participation Agreement with the Developer ("Original OPA"). Among other things, the Original OPA obligates the CRA/LA to provide to the Developer a promissory note in the original principal amount of up to $5,000,000, pledging CRA/LA's net site specific tax increment funds, in order to reimburse the Developer for certain public improvement costs.

In 2008, the CRA/LA Board approved a First Amendment to the Original OPA ("First Amendment"). Among other things, and in addition to the Original OPA, the First Amendment obligates the CRA/LA to provide to the Developer: (i) an additional promissory note in the original principal amount of up to $5,422,000, pledging CRA/LA's net site specific tax increment funds, in order to reimburse the Developer for certain public improvement costs and certain foundation costs; and (ii) a lump sum payment of up to $3,900,000 in order to reimburse the Developer for certain public improvement costs.

The proposed Second Amendment is to help ensure the completion of Phase Two of the Project, a 383,667 square foot retail center (Attachment "A"). Phase Two will create 722 construction and 800 permanent jobs (as estimated by CDD), bring quality, national, retail tenants to an underserved community and serve as a catalyst for additional economic investment and development in the surrounding community.

More specifically, the Second Amendment provides up to an additional $2,000,000 in financial assistance for the construction of publicly-owned improvements, thus increasing CRA/LA's financial assistance from a total of up to $14,322,000 (plus interest), as approved in the Original OPA and the First Amendment, to a total of up to $16,322,000 (plus interest). Of the $16,322,000, up to $10,300,000 will used to fund publicly-owned improvements and the remaining portion will be used to fund a portion of the foundation costs. In addition to increasing the total amount of CRA/LA's financial assistance, the Second Amendment also allows for additional foundation costs as eligible costs for CRA/LA's financial assistance and reallocates eligible costs for the two promissory notes. To date, CRA/LA has not disbursed any funds to the Developer. A summary of CRA/LA's financial assistance under the Original OPA, as amended by the First Amendment and the Second Amendment, is shown in Table 1.

Table 1	**Summary—CRA/LA Financial Assistance**				
Agreement under which the amount of assistance is initially committed	**Instrument**	**Type of Assistance**	**Costs Allocated to Public Improvements under Second Amendment**	**Costs Allocated to the Foundation under Second Amendment**	**Total Amount**
Original OPA	Senior Note	Note to Pay Net SSTI	$ 4,400,000	$ 600,000	$ 5,000,000
1st Amendment	Junior Note	Note to Pay Net SSTI	$ 0	$5,422,000	$ 5,422,000
1st Amendment	Lump Sum Payment	CRA/LA Payment	$ 3,900,000	$ 0	$ 3,900,000
2nd Amendment (Proposed)	Draw Based Payment	CRA/LA Payment	$ 2,000,000	$ 0	$ 2,000,000
Total Assistance (Proposed)			**$10,300,000**	**$6,022,000**	**$16,322,000**
***Figures are maximum amounts; actual amounts reimbursable by CRA/LA are determined by certification of costs actually incurred by the Developer. To date, CRA/LA has not disbursed any funds to the Developer. With respect to the two promissory notes, the use of funds may be allocated differently between the "Foundation" category and the "Publicly-Owned Improvements"**					

category. Terms of the CRA/LA assistance are discussed in the Background section.

Developer has agreed to comply with CRA/LA's Construction Careers and Project Stabilization Policy with respect to that portion of Phase Two of the Project assisted by the additional $2,000,000 under the Second Amendment, which are the Phase Two offsite public improvements. CRA/LA may, at its sole and absolute discretion, elect to construct the improvements by itself or by its contractors and subcontractors. CRA/LA staff would return to the Board for authorization before making such election. Upon such election, CRA/LA will not have any obligation to provide the Developer with the additional $2,000,000 under the Second Amendment. In addition, the Developer will reimburse the CRA/LA for any publicly-owned improvement costs exceeding $2,000,000.

RE

July 16, 2008 - City Council approval of a First Amendment to OPA with CIM/Pico, L.P.

May 15, 2008 - CRA/LA approval of a First Amendment to OPA with CIM/Pico, L.P.

January 19, 2007 - City Council approval of a new OPA with CIM/Pico, L.P.

December 21, 2006 - CRA/LA approval of a new OPA with CIM/Pico, L.P.

July 19, 2004 - City Council approval of an OPA with CIM/Pico, L.P.

March 4, 2004 - CRA/LA approval of an OPA with CIM/Pico, L.P.

SOURCE OF FUNDS

Mid-City Tax Increment, Mid-City Bond Proceeds (Taxable) and AB1290 funds.

PROGRAM AND BUDGET IMPACT

The proposed action is consistent with the FY10 Budget and Work program relating to the Mid-City Project Area. The approved FY10 Budget as amended for the Mid-City Recovery Redevelopment Project Area includes $2,250,000 for Public Improvements. With the approval of this item, $2,250,000 (or 100%) of the total amount budgeted, will be committed to approved Public Improvement projects. Sufficient funds are available to make any legally-required State ERAF payments. There is no impact on the City's general fund.

As part of the City's approved FY2009-10 Proposed Budget, Council revised the AB1290 policy to transfer the City's share of FY2009-10 and future AB1290 funds to the City's General Fund less "Commitments" and "Planned Uses." For the purposes of this revised policy, this proposed project would be tracked as a "planned use" and thus would be an eligible AB1290 funded project. The council office submitted correspondence requesting the use of AB1290 funds for this purpose. (Please see Attachment "B".)

ENVIRONMENTAL REVIEW

The City of Los Angeles was the lead agency for the proposed project for purposes of the California Environmental Quality Act (CEQA). The City Planning Department adopted a Mitigated Negative Declaration, MND-2000-2497-CUZ - (CCR) (CUB) (ZV) (SUB) (HV) ("MND") for the Pico Plaza Project. Subsequent to actions by the City of Los Angeles, CRA/LA adopted a Resolution certifying that the CRA/LA Board of Commissioners had reviewed and considered

the information in the MND and approved the Pico Plaza Project. On March 4, 2004, in connection with an approval of an OPA with the current developer of the renamed project, the CRA/LA Board of Commissioners considered an Addendum to the MND, which was prepared due to changes in the site plan and proposed development square footages. The Project, as currently proposed, is smaller than what was analyzed in the MND and the Addendum, and there are no substantial changes with respect to the circumstances under which the project is undertaken involving new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Therefore, no additional environmental documentation is needed.

BACKGROUND

Since 2008, Project costs have increased by $8,721,627. The increased costs are mainly attributable to the delay in construction resulting from the national financial crisis. Shortly after the Board and the City Council approved the First Amendment in May and July of 2008, respectively, construction activity started. However, in September 2008 when the credit crisis hit its most critical stage and just before construction loans were scheduled to close, the Developer's three lenders withdrew their loan commitments. As a result, the Project came to an abrupt halt.

Based on the executed Lowe's lease, the Developer is now poised to complete the Project, having recently obtained a new construction loan commitment and an additional Section 108 Loan. The Developer is also increasing its equity commitment by a substantial $24,914,008 as the on-going credit crisis and the lack of tenant commitments have served to constrain the size of the conventional loan. Project sources and uses are shown in Table 2.

Table 2	Sources & Uses		
Sources	**2010**	**2008**	**Change**
Total Equity	$ 69,891,008	$ 44,977,000	$ 24,914,008
Conventional Loans	$ 65,960,619	$103,253,000	$(37,292,381)
Section 108 Loans	$ 27,900,000*	$ 8,800,000	$ 19,100,000
Lump Sum Payment	$ 3,900,000	$ 3,900,000	$ 0
Draw Based Payment	$ 2,000,000		$ 2,000,000
Total Sources	**$169,651,627**	**$160,930,000**	**$ 8,721,627**

*There are two Section 108 Loans. One loan, in the amount of $8,800,000, has been executed. The other loan is expected to be executed in the amount of $19,100,000. CRA/LA payments under those two promissory notes will likely be assigned by the Developer to CDD to pay a portion of the debt service on the Section 108 Loans. The CRA/LA is not responsible for the repayment of these Section 108 Loans.

Uses	**2010**	**2008**	**Change**
Acquisition Costs	$ 27,157,860	$ 27,095,000	$ 62,860
Hard Costs	$ 95,210,233	$103,684,000	$ (8,473,767)
Soft Costs	$ 25,536,930	$ 20,298,000	$ 5,238,930
Financing Costs	$ 21,746,604	$ 9,853,000	$11,893,604
Total Uses	**$169,651,627**	**$160,930,000**	**$ 8,721,627**

The Developer is committed to building-out the entire Project even though it has executed a lease with only one tenant, Lowe's Home Improvement and Garden Center.

The Project's return on investment is just under 7%, a rate of return significantly below returns required in similar projects sponsored by the CRA/LA and in the Southern California real estate market. The low rate of return would be unacceptable to most real estate investors in today's

marketplace. The Developer is prepared to move forward due to the history of the Project and the time limit on the lease commitment, which requires that Lowe's be completed by July 1, 2012.

This Board memo incorporates a recommendation to authorize the Chief Executive Officer or designee to apply for a U.S. Department of Commerce Economic Development Administrative Grant ("EDA Grant") up to $1,000,000. If awarded, grant proceeds will be used to reimburse the CRA/LA for a portion of the $2,000,000 financial assistance provided by the Second Amendment. However, the financial assistance provided to the Developer in this Second Amendment is not predicated on the CRA/LA applying for or receiving an EDA Grant. Depending on the timing of the EDA Grant process and the timing of the Phase Two public improvement construction, CRA/LA may or may not receive any EDA Grant. If the EDA Grant is awarded, CRA/LA staff will return to the Board for authority to (i) enter into agreements required by the EDA Grant, (ii) amend the CRA/LA budget to accept the EDA Grant money, and (iii) carry out actions associated with the EDA Grant.

As part of the approval processes for the Original OPA and the First Amendment, the CRA/LA Board and the City Council have made certain statutory findings required under the California Health and Safety Code relating to the payment of public improvement costs. Collectively, findings were made for the expenditure of up to $3,900,000 from the Wilshire Center/Koreatown Recovery Redevelopment Project Area and up to $6,400,000 from the Mid-City Recovery Redevelopment Project Area for the publicly-owned improvements associated with the Project. The Second Amendment is consistent with those previous findings.

CRA/LA Financial Assistance

Senior Note:

It provides for CRA/LA financial assistance in the principal amount of up to $5,000,000 (plus interest). The assistance is evidenced by a promissory note referred to as the Senior Note, which is a pledge by the CRA/LA to reimburse the Developer for costs related to the construction of publicly-owned improvements and the foundation. The source of repayment is limited to the net Site Specific Tax Increment the project will produce after it is built and generating new tax increment. Therefore, no upfront financial assistance is provided under the Senior Note.

The Senior Note carries an interest rate of six percent (6%) per annum, compounding annually, and a term expiring in 2042 unless it is repaid prior to this date. Repayment by the CRA/LA is from net SSTI in an annual amount not to exceed $465,000. If sufficient site-specific tax increment is not generated by the Project sufficient to repay the note, the balance is forgiven in 2042. CRA/LA is not obligated to, and has no current intent to, issue any bonds to repay the Senior Note.

Junior Note:

The same terms and conditions apply to the second promissory note referred to as the Junior Note. The principal amount of the Junior Note is up to $5,422,000, and the annual payment is capped at $385,000 annually. Delivery of both notes is subject to various conditions precedent, including the completion of the Project and certification of actual costs expended on the publicly-owned improvements and foundation by the Developer. CRA/LA is not obligated to, and has no current intent to, issue any bonds to repay the Junior Note.

Lump Sum Payment:

The source of funds for the CRA/LA one-time payment of up to $3,900,000, referred to as the Lump Sum Payment, is Wilshire Center/Koreatown tax increment. The payment is subject to various conditions precedent, including cost certification of actual expenditure of eligible costs, evidence of a closed construction loan and/or equity commitment equal to total development costs, and verification that all building and grading permits have been obtained from the City to construct the improvements. The Lump Sum Payment has not been disbursed as the Developer has not completed the necessary and required Conditions Precedent.

Draw Based Payment:

The additional CRA/LA financial assistance up to $2,000,000 is referred to as the Draw Based Payment because it is anticipated the Developer will seek reimbursement through multiple payments rather than as one lump sum. Like the Lump Sum Payment, it is subject to conditions precedent including certification of costs actually incurred by the Developer. As mentioned above, if the CRA/LA elects to construct the improvements by itself or by its contractors and subcontractors, CRA/LA will not have any obligation to provide the Developer with the additional $2,000,000 Draw Based Payment. In addition, the Developer will reimburse the CRA/LA for any publicly-owned improvement costs exceeding $2,000,000.

City of Los Angeles Financial Assistance

As part of the Project's 2006 financing structure, the City of Los Angeles provided a Section 108 Loan Guarantee in the amount of $8,800,000. The City is now providing an additional Section 108 Loan Guarantee in the amount of $19,100,000. The Section 108 Loan Guarantee is expected to be paid back from project generated site-specific business license, sales and utility tax revenues as well as net site specific tax increment proceeds assigned by the Developer from the CRA/LA's two promissory notes. The City's loan is further secured by a second trust deed on the property as well as a debt service guarantee by the Developer.

Estoppel and Agreement with Developer

On September 28, 2009, CRA/LA, based on the CEO's authority, entered into an Estoppel and Agreement with CIM/Pico, L.P., CIM Urban Real Estate Fund, LP, and Comerica Bank as agent for certain lenders, for the purpose of, among other things, allowing the Developer to: (i) permit the recordation of a cross-collateralized deed of trust against the Midtown Crossing project site, (ii) replace the Developer's general and limited partners, and (iii) permit the conditional assignment of the OPA to Agent, all in connection with the refinancing of existing and maturing loans against five properties including the Project site. The Second Amendment contains a condition that there shall be no default under this cross-collateralized loan before CRA/LA provides financial assistance.

About the Project

Midtown Crossing is a 383,667 square-foot commercial/retail redevelopment project. The square footage is allocated as shown in Table 3. Phase One, built on approximately 2 acres, was completed in June of 2007 and consists of three retail buildings of 18,228 square feet, an associated 81-space at-grade parking lot, and the Pico/Rimpau Transit Center.

Phase Two, to be built on the approximately 9.7 acres, is the subject of this Second Amendment and will include a three-story, 365,439 square foot, commercial/retail building and an associated multi-level parking structure. It will be completed in two stages. Phase Two-A will include construction of the retail and parking structures. The first level of the retail structure will be fully built out for Lowe's while the second level big-box and in-line retail space will be delivered in

core and shell condition. Phase Two-B will consist of building storage space and tenant improvements for the second level big-box and the third floor retail space.

Table 3	Phases One & Two—Square Feet		
Phase	**Tenant**	**Sq. Ft.**	**Total**
Phase One*	Wells Fargo	5,049	
	Foot Locker	2,445	
	Panda Express	1,459	
	AT&T	1,200	
	Starbucks	2,151	
	Four Vacant Spaces	5,924	
Total Square Feet Phase One			18,228
Phase Two	Lowe's	163,500	
	2nd Big-box	122,923	
	Storage for Big-box	47,610	
	3rd Floor Retail	31,406	
Total Square Feet Phase Two			365,439
Total Square Feet Phases One & Two			383,667
*Phase One included construction of the Pico/Rimpau Transit Center with an estimated ridership of over 4,000 passengers daily. Phase One & Two will have a total of 1,170 parking spaces.			

The Project incorporates a number of sustainable design elements:

- The Pico/Rimpau Transit Center is incorporated into the Phase One;
- Reduced parking as allowed by Transit Oriented Development;
- Remediation and re-use of a Brownfield site;
- Re-use of approximately 10,000 cubic yards of concrete from the demolished (Sears) building;
- Bike parking and showers for employee use;
- On-site storm water infiltration system;
- Energy efficient design exceeds 2006 Title 24 requirements by 5% for the retail structures;
- Energy efficient lighting and controls in parking structure;
- Heat reflective roof materials;
- Trellis shade structures on parking deck;
- Tenant sub-metering with measurement and verification capabilities;
- Recycled content in structural steel and concrete structures; and
- Low VOC paints.

Community Benefits

Midtown Crossing provides significant social and economic benefits to the community.

- ✓ Phase One provided 73 construction jobs and 50 permanent jobs;
- ✓ Phase Two will provide 722 construction jobs and another 800 (as estimated by CDD) permanent jobs;
- ✓ With respect to the to-be-filled anchor space in Phase Two, the CRA/LA, Developer and future anchor tenant(s) who occupy more than 15,000 sq ft with longer than a 5-year lease will work together in good faith to develop a local hire program that meets the CRA/LA's goals and the prospective additional anchor's requirements.
- ✓ The Construction Careers and Project Stabilization Policy applies to the Phase Two publicly-owned improvements, which are the subject of the additional $2,000,000 in CRA/LA financial assistance.

- ✓ Easy and local access to goods and services at the competitive prices offered by quality national retailers in a community that has been historically underserved;
- ✓ $10,300,000 in publicly-owned improvements including the Pico/Rimpau Transit Center; construction of sidewalks, curbs, gutters, catch basins; construction of new medians on Pico and Venice Boulevards; installation of new street lights on Pico, San Vicente and Venice Boulevards; and the installation of new traffic signals;
- ✓ An investment of over $1,000,000 in on-site and off-site public art;
- ✓ A high quality architectural design with significant landscaping, encouraging community gathering and creating a sense of place;
- ✓ Improved neighborhood safety and security through a Neighborhood Protection Program; and
- ✓ A substantial contribution to the creation and management of a program to address and mitigate the existing day labor situation in the community.

Midtown Crossing is the first major retail development the Mid-City community has seen in decades. It is a high priority for the Tenth Council District Office and the community.

PROJECT SUPPORT

City Councilmember Herb Wesson strongly supports the Midtown Crossing Project and considers it a high priority project that should be completed as soon as possible. Also supporting the Project are the Project Area Committee ("PAC") for the Mid-City Recovery Redevelopment Project Area and the Mid-City Neighborhood Council.

Calvin E. Hollis
Interim Chief Executive Officer

By

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Glenn F. Wasserman
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 - Location Maps
Attachment B – Council Office AB1290 Request