City of Culver City, California

Agenda Item Report

Meeting Date: 02/04/2013	Item Number: C-2
SUCCESSOR AGENCY BOARD AGENDA ITEM: Conditional Approval of a Settlement Relating to an Existing Debt with the Third Party who has Executed a Guaranty for a Loan Issued by the Former Culver City Redevelopment Agency Pursuant to a Participation Agreement Loan with Sporteve, Inc.	
Contact Person/Dept.: Todd Tipton, CDD	Phone Number: (310) 253-5783
Fiscal Impact: Yes [X] No []	General Fund: Yes [] No [X]
Public Hearing: [] Action Item: [] Attachments: []	
Commission Action Required: Yes [] No [X] Date: _______________	
Public Notification: Public Notification: (E-Mail) Meetings and Agendas – Successor Agency (1/30/13) and Belinda Fischer and Peter Lee.	
Department Approval: Sol Blumenfeld (01/30/13)	Successor Agency General Counsel Approval: Carol Schwab (by H. Baker) (01/30/13)
Chief Financial Officer Approval: Jeff Muir (01/30/13)	Executive Director Approval: John M. Nachbar (01/30/13)

RECOMMENDATION:

Staff recommends the Successor Agency to the Culver City Redevelopment Agency Board (Successor Agency Board) conditionally approve a settlement with the third party who guaranteed a loan issued by the former Culver City Redevelopment Agency (Former CCRA) pursuant to a Participation Agreement Loan with Sporteve, Inc. The approval of the settlement is conditioned on the approval of same by the Oversight Board of the Successor Agency to the Culver City Redevelopment Agency and the State Department of Finance.

BACKGROUND:

On November 1, 2006, the Former CCRA entered into a Participation Agreement (Agreement) with Sporteve, Inc. (Sporteve) to provide a $200,000 loan for tenant improvements to a retail store located at 3849 Main Street. The loan was secured by guaranties from (1) Sporteve's owner Ms. D'Lynda Fisher (Owner) and (2) Ms. Belinda Fischer and Mr. Peter Lee (the "Third Party" as designated in the Agreement). As part of the guaranty provided by the Third Party a Deed of Trust was recorded on property owned by the Third Party (the Property).

Unfortunately near the time the Owner was to begin repayment of the loan, she notified staff that her business was not doing as well as expected and the Owner and Sporteve, Inc. were preparing to file bankruptcy. Ultimately, as staff was preparing to initiate collection proceedings, staff received notice of the filing of bankruptcy for the Owner and Sporteve, Inc. However, no such notice has been received to date for the Third Party (and to the best of staff's knowledge, the Third Party has not filed for bankruptcy).

The Owner has received a Notice of Discharge.

DISCUSSION

With the Discharge, the Successor Agency can no longer pursue collection efforts against Owner. However, the Third Party has not filed bankruptcy and remains liable for the debt.

The Third Party has presented an offer of settlement of $200,000 payable to the Successor Agency in return for a full settlement of the obligations of the Third Party and reconveyance of the Deed of Trust recorded as security.

The Successor Agency can settle the case now for a guaranteed $200,000. Staff recommends the Successor Agency Board approve the proposed settlement in full satisfaction of the debt and the Third Party's obligations under the Third Party Guaranty rather than expend additional Successor Agency resources on collection. Such approval is conditional upon the approval of the by the Oversight Board of the Successor Agency to the Culver City Redevelopment Agency and the State Department of Finance.

Should the Successor Agency Board conditionally approve the proposed settlement, staff would present an item to the Oversight Board on this subject at its regular meeting of February 14, 2013. Should the Oversight Board approve the proposed settlement, then the Oversight Board's action would be transmitted to the State Department of Finance for review. In the case the State Department of Finance either (1) does not choose to review this action of the Oversight Board or (2) otherwise approves the action of the Oversight Board, the conditional settlement would be approved. Staff would then prepare and execute a settlement agreement, accept the $200,000 settlement, and process a Reconveyance of the Deed of Trust. This process may take some time to complete, based upon the actions of the Oversight Board and/or the State Department of Finance.

FISCAL ANALYSIS:

Successor Agency Special Counsel advises that the legal costs to collect the entire loan amount owed to date (approximately $261,000) could be $50,000 if foreclosure and other court actions are necessary.

Approval of the settlement would result in rapid collection of the $200,000 principal amount, avoid further collection costs and the uncertainty of pursuing a lawsuit.

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MOTION:

That the Successor Agency Board:

(1) Conditionally approve a settlement offer from the Third Party who guaranteed a loan issued by the Former Culver City Redevelopment Agency pursuant to a Participation Agreement Loan with Sporteve, Inc.; and,

(2) Authorize the Successor Agency General Counsel and Successor Agency Special Counsel to review/prepare the necessary documents (subject to the approval of the settlement by the Oversight Board and the State Department of Finance); and,

(3) Authorize the Executive Director to execute such documents on behalf of the Successor Agency.