

MEETING DATE: 04/16/07

AGENDA ITEM: Authorization to Terminate the Exclusive Negotiation Agreement with Olson Urban Housing LLC for the Washington Boulevard/Centinela Avenue Redevelopment, the Purchase of Certain Documents Relative to the Property, and Issuance of a Request for Proposal for the Redevelopment of the Site.

ATTACHMENTS

		Pages
1	Acknowledgement of Termination of Exclusive Negotiation Agreement, Purchase of Documents and Release	1-8
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**ACKNOWLEDGMENT OF TERMINATION OF
EXCLUSIVE NEGOTIATION AGREEMENT, PURCHASE OF DOCUMENTS
AND RELEASE**

THIS **ACKNOWLEDGMENT OF TERMINATION OF EXCLUSIVE NEGOTIATION AGREEMENT, PURCHASE OF DOCUMENTS AND RELEASE** (this "Termination and Release") is entered into by and between the **CULVER CITY REDEVELOPMENT AGENCY**, a public body, corporate and politic ("Agency"), and **OLSON URBAN HOUSING, LLC**, a Delaware limited liability company ("Developer"), under the terms and provisions set forth below. Agency and Developer are sometimes hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, on September 14, 2004, the Agency and Developer entered into an Exclusive Negotiation Agreement (the "Agreement") to seek to negotiate the terms of a Disposition and Development Agreement or an Owner Participation Agreement in furtherance of the goals and objectives of the Redevelopment Plan for the Culver City Redevelopment Project, Component Area No. 4; and

WHEREAS, in a letter dated February 23, 2005, pursuant to Section 2.D. of the Agreement, the Agency's Assistant Executive Director extended the term of the Agreement for a period of sixty (60) days; and

WHEREAS, on September 6, 2005, the Agency Board approved (i) an extension of the term of the Agreement for an additional nine (9) months from the original expiration date of the Agreement, (ii) a revised Schedule of Performance to be attached to the Agreement, and (iii) the removal of Site C from the Agreement; and

WHEREAS, on October 17, 2005, the Agency Board approved the removal of Site D from the Agreement; and

WHEREAS, on January 18, 2006, the Agency and Developer executed a First Amendment to Exclusive Negotiation Agreement (the "First Amendment") which extended the term of the Agreement and memorialized the removal of Site C and Site D from the Agreement; and

WHEREAS, on December 19, 2006, the Agency and Developer executed a Second Amendment to Exclusive Negotiation Agreement (the "Second Amendment") which (i) extended the term of the Agreement, (ii) revised the Schedule of Performance, and (iii) removed Site A from the Agreement; and

WHEREAS, the Agreement, as amended by the First Amendment and the Second Amendment, shall be referred to herein as the "ENA;" and

WHEREAS, the ENA has automatically terminated pursuant to its terms; and

WHEREAS, in connection with the termination of the ENA, the Agency desires to purchase, and Developer desires to sell, certain documentation prepared in connection with the ENA; and

WHEREAS, on April 16, 2007, the Agency Board approved this Termination and Release.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the Agency and Developer mutually agree as follows:

Accuracy of Recitals; Defined Terms. The Parties acknowledge the accuracy of the foregoing Recitals, which are incorporated herein by this reference. Capitalized terms not defined herein shall have the meanings ascribed to them in the ENA.

Termination. The Parties agree and acknowledge the ENA has automatically terminated pursuant to its terms, and therefore is of no further force and effect.

Purchase of Plans and Specifications. In connection with the ENA, both Developer and Agency ordered various appraisals, plans, studies, specifications, surveys, and other documentation for use in the development of the project proposed for Sites A and B. A number of those documents continue to have value to the Agency and/or a future developer of Sites A and B, and the Agency desires to purchase from Developer (or reimburse Developer for, as applicable) certain documentation.

Developer hereby sells (or conveys, as applicable), and the Agency hereby purchases (or reimburses, as applicable), any and all of Developer's rights, title and interest in and to the appraisals, plans, studies, specifications, surveys, and other documentation listed on Exhibit "A" hereto (collectively, the "Plans and Specifications") for the purchase price of Fifty Thousand Six Hundred Sixteen Dollars (\$50,616) (the "Purchase Price"). The Purchase Price shall be delivered to Developer within thirty (30) days of the execution of this Termination and Release. To the extent such Plans and Specifications are in the possession of Developer, Developer shall deliver possession of and any copies of the Plans and Specifications to the Agency concurrently with the payment of the Purchase Price. Developer may retain a copy of any or all of the Plans and Specifications for its records. Agency understands and agrees that the Plans and Specifications may be subject to copyright or other restrictions on use imposed by the authors of the Plans and Specifications, and that Developer makes no warranties as to the content, usability or accuracy of the Plans and Specifications.

Architectural Plans and Traffic Study. Until such date as is five (5) years from the Effective Date, Developer agrees that, upon the request of the Agency, Developer will sell to the Agency or any party designated by the Agency, any and all rights it possesses to (i) some or all of the architectural plans and/or drawings prepared for the project proposed for Sites A and/or B (collectively, the "Architectural Plans"), and/or (ii) the traffic study for the project previously proposed for Sites A and B (the "Traffic Study"). Developer agrees to sell the Architectural Plans and/or Traffic Study for a price equal to

its costs to prepare such documents. Developer further agrees to provide reasonable documentation of its costs (such as architect or consultant bills or invoices) at the time it is requested to convey the Architectural Plans and/or the Traffic Study.

Third-Party Consent. Developer represents and warrants that it has paid for the Plans and Specifications, Architectural Plans and Traffic Study ordered by it in full and that no amounts remain due in connection therewith to any consultant or other party who prepared such documents for Developer. Developer hereby indemnifies and holds harmless Agency from and against any and all claims that Developer has not paid in full for any Plans and Specifications, Architectural Plans or Traffic Study(ies) ordered by it. Developer agrees to obtain written consent from each third party consultant who prepared the Plans and Specifications, Architectural Plans and/or Traffic Study for any conveyance effected pursuant to this Termination and Release. Each consent shall be in a form reasonably acceptable to the Agency's legal counsel, and shall grant (or acknowledge, as appropriate) to the Agency the use of the applicable document(s) by the Agency and any designee of the Agency in connection with the redevelopment of the Project Area. Such consents shall be provided by Developer prior to, or concurrently with, the conveyance of the documents by Developer to the Agency or its designee.

Release. Developer hereby forever releases and discharges the Agency and the City of Culver City ("City"), and their respective successors, representatives, agents, officers and employees, and the Agency hereby forever releases and discharges Developer and its respective successors, representatives, agents, officers and employees, and Developer and Agency each forever waives any claim against the foregoing parties, from any and all claims, debts, liabilities, demands, obligations, costs, expenses, actions and causes of action of every nature, character and description, known or unknown, which Developer or Agency now owns or holds, or has at any time heretofore owned or held, or may at any time own or hold, by reason of any matter, cause or thing whatsoever occurred, done, omitted or suffered to be done in connection with the ENA and/or the termination thereof, except that the foregoing release and waiver shall not apply to any claims which may arise under Sections 3, 4 or 5 of this Termination and Release.

a. **Awareness of Civil Code Section 1542.** Developer and Agency expressly acknowledge that each is familiar with and has read the provisions of California Civil Code Section 1542, that reads: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of the executed release, which if known by him must have materially affected his settlement with the debtor."

b. **Waiver of Civil Code Section 1542.** It is expressly stated by Developer and Agency, that each intends, by executing this Termination and Release, to fully and forever release any and all claims against the Agency and the City and their respective successors, representatives, agents, officers and employees, or against the Developer and its respective successors, representatives, agents, officers and employees, respectively; including not only those claims presently known to or suspected by them,

but those claims that are unknown to and unsuspected by them, including claims that have not and may not have arisen as of the execution of this Termination and Release. Developer and Agency further expressly acknowledge that each has been fully advised of the purpose and effect of Civil Code Section 1542 by counsel, and of the effects and consequences of the waiver of the same. Having been so advised, and with full knowledge and understanding of the consequences, Developer expressly waives and relinquishes all rights and benefits afforded it by Civil Code Section 1542.

BY SIGNING THIS TERMINATION AND RELEASE, DEVELOPER AND AGENCY HEREBY WAIVE THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES.

OLSON URBAN HOUSING, LLC

a Delaware limited liability company

Dated: _____

By: _____
Its: _____

Dated: _____

By: _____
Its: _____

**CULVER CITY REDEVELOPMENT
AGENCY**

Dated: _____

By: _____
Jerry Fulwood,
Executive Director

c. **General.** Developer and Agency have carefully read the contents of this Release and have executed this Termination and Release with full knowledge and upon independent advice from counsel. Developer and Agency have freely signed this Termination and Release without relying on any agreement, promise, statement or representation by or on behalf of the Agency, the City, Developer or their respective officers, employees, agents or representatives.

The provisions of this Termination and Release shall be binding upon Developer and Agency and their respective successors and assigns and shall be governed by the laws of the State of California.

Captions. The captions appearing in this Termination and Release are for convenience only and are not a part of this Termination and Release and do not in any way limit, amplify, define, construe, or describe the scope or intent of the terms or provisions of this Termination and Release.

Counterparts. This Termination and Release may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute but one and the same document.

Effective Date. The effective date of this Termination and Release is the date it is signed on behalf of both the Agency and Developer.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Agency and Developer have executed this Termination and Release as of the dates set forth below:

**CULVER CITY REDEVELOPMENT
AGENCY**

Dated: _____

By: _____

Jerry Fulwood,
Executive Director

APPROVED AS TO FORM:

By: _____
Agency Counsel

OLSON URBAN HOUSING, LLC
a Delaware limited liability company

Dated: _____

By: _____

Its: _____

Dated: _____

By: _____

Its: _____

Exhibit “A”

Plans and Specifications

Item	Purchase Price	Comments
Initial and Updated Appraisals for Sites A and B	\$11,838	The Agency is in possession of these documents.*
Acoustic Study	\$850	Olson will need to turn this document over to the Agency with the required Third Party Consent outlined in Section 5 of this Agreement.
Environmental Investigation Reports	\$15,560	Though the Agency is in possession of some of the reports, others initiated by Olson will need to be provided to the Agency along with the Third Party Consent outlined in Section 5 of this Agreement
Soil Boring Studies	\$11,368	Olson will need to turn this document over to the Agency with the required Third Party Consent outlined in Section 5 of this Agreement.
ALTA Civil Geographical Survey	\$11,000	Olson will need to turn this document over to the Agency with the required Third Party Consent outlined in Section 5 of this Agreement.
Total	<u>\$50,616</u>	

*Purchase Price represents reimbursement to Developer of Developer deposits paid to Agency pursuant to the ENA and used by Agency to order and obtain the document.

CULVER CITY REDEVELOPMENT AGENCY
PO Box 507
9770 CULVER BOULEVARD
CULVER CITY CA 90232-0507

NOTIFICATION OF IMPORTANT REDEVELOPMENT AGENCY AGENDA ITEM:

*Termination of Olson's Exclusive Negotiation Agreement and Issuance of Request
for Proposal for the Washington Blvd. at Centinela Ave. Redevelopment*



The Redevelopment Agency will consider the following agenda item at their meeting of:

Date: Monday - April 16, 2007
Time: 7:00 PM

"With respect to the Washington Boulevard at Centinela Avenue Redevelopment: (A) Acknowledgment of the Termination of the Exclusive Negotiation Agreement with Olson Urban Housing LLC and Consideration of the Purchase of Certain Documents in Connection Therewith, (B) Acknowledgment of the Failure of SJ Woo LLC/PCKW LLC to Sign an Exclusive Negotiation Agreement, and (C) Approve the Issuance of a Request for Proposal for the Redevelopment."

For more information contact:
Joe Susca
Redevelopment Project Manager
310-253-5763

Location:

City Hall
Mike Balkman Council Chambers
9770 Culver Boulevard
Culver City, CA 90232

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