

**City of Culver City, California
Redevelopment Agency Agenda Item Report**

Meeting Date: 04/21/08		Item Number: <u>A-2</u>	
AGENDA ITEM: Approval of the Second Amendment to the Participation Agreement for 3535 Hayden Avenue.			
Contact Person/Dept.: John Fisanotti		Phone Number: (310) 253-5767	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: Master Notification List on April 17, 2008.			
Department Approval: Sol Blumenfeld (04/16/08)		Executive Director Approval: Jerry B. Fulwood (04/17/08)	
Fiscal Impact Review: Jeff Muir (04/17/08)			

RECOMMENDATION:

Staff recommends the Culver City Redevelopment Agency ("The Agency") approve a proposed second amendment to the Participation Agreement with Frederick Smith for 3535 Hayden Avenue.

BACKGROUND:

Mr. Smith owns the property at 3535 Hayden Avenue (the "Site"). On September 5, 1995, the Agency approved a Participation Agreement (the "Agreement") with the firm of Pittard Sullivan ("PS") and Mr. Smith. The Agreement provided a loan from the Agency to PS in the amount of \$190,863.63, secured by a Deed of Trust recorded against the site and signed by Mr. Smith.

The loan was an economic development effort used to attract this particular business from its prior location in Los Angeles to Culver City. The Agreement allowed repayment of the loan in the form of either: principal and interest payments, or forgiveness of principal and interest, if certain employment and gross receipt tax revenue targets were met by PS, as spelled out in the Agreement.

The Agreement was modified by the Agency on July 7, 2003 to substitute tenants, because by then, PS had gone out of business, and the form of security was changed from the Deed of Trust to a personal guarantee by Mr. Smith.

By 2005, the new tenants had also gone out of business, which according to the terms of the Agreement, constituted a default. The responsible party for repayment and curing the default was then Mr. Smith.

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Recently, staff has negotiated terms of a proposed Second Amendment to Participation Agreement (the "Second Amendment") with Mr. Smith to resolve the present default. A draft of the Second Agreement has been attached for review.

DISCUSSION:

The proposed Second Amendment makes the following changes to the Agreement:

- The time frame for repayment of the principal and interest has been shifted from the years 2002-2009 to 2008-2012.
- The number of businesses that can contribute to meeting the employment and revenue targets (which entitle the borrower forgiveness of the annual principal and interest payment) has been expanded to include five additional properties owned by Mr. Smith. The proposed eligible properties are listed in Attachment "A" to the Second Amendment.
- A provision has been added that will allow a payment to the City for any shortfall between the revenue target and the actual amount collected in the event the businesses in Attachment "A" do not meet the collective revenue target.

Although the original Agreement from 1995 was drafted specifically to draw a particular tenant which has since gone out of business to the Hayden Tract, through the cooperative efforts of the Redevelopment Agency and area landowners and tenants, the Hayden Tract has benefitted from economic revitalization. The revitalization of the Hayden Tract, which PS helped instigate, has brought many major companies to the area. Therefore, staff believes the Second Amendment represents a reasonable partnership between the Agency and Mr. Smith to achieve the mutual goal of a thriving Hayden Tract.

FISCAL ANALYSIS:

The Second Amendment will help to cure the present default. As with the prior Agreement, in lieu of principal and interest payments on the loan, it encourages economic performance by measuring increases in local tax revenue and number of employees in order to attain specified levels of achievement.

ATTACHMENTS:

1. Draft Second Amendment to the Participation Agreement Re: 3535 Hayden Avenue.

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MOTION:

That the Redevelopment Agency:

1. Approve the Second Amendment to the Participation Agreement Re: 3535 Hayden Avenue; and
2. Authorize the Executive Director to execute the Second Amendment to the Participation Agreement on behalf of the Agency.