City of Culver City, California

Redevelopment Agency Agenda Item Report

Meeting Date: 2/28/11	Item Number: A-3
REDEVELOPMENT AGENCY BOARD AGENDA ITEM: Consideration of the First Amendment to the 2008 Owner Participation Agreement with Westfield Corporation.	
Contact Person/Dept.: Sol Blumenfeld / Community Development	Phone Number: (310) 253-5700
Fiscal Impact: Yes [X] No []	General Fund: Yes [] No [X]
Public Hearing: [] Action Item: [X]	Attachments: [X]
Commission Action Required: Yes [] No [X]	Date: ________________
Public Notification: (E-Mail) Meetings and Agendas – Redevelopment Agency (2/24/11); (E-Mail) The Westfield Corporation (2/24/11); (E-Mail) The Downtown Business Association (2/24/11);	
Department Approval: Sol Blumenfeld: (02/24/11)	Agency General Counsel Approval: Murray Kane: (02/24/11)
Chief Financial Officer Approval: Jeff Muir (by N. Kimball): (02/24/11)	Executive Director Approval: John Nachbar: (02/24/11)

RECOMMENDATION:

Staff recommends the Culver City Redevelopment Agency Board (Agency Board) approve the First Amendment to the 2008 Owner Participation Agreement (OPA) between the Culver City Redevelopment Agency and Westfield Corporation.

BACKGROUND:

In 2008, the Redevelopment Agency entered into an OPA with Westfield Corporation which provides for $168 million of mall improvements in consideration for Agency reimbursement of net new tax increment generated from the project over ten years from the date of project completion.[1]

Westfield Corporation has requested that the Agency Board consider an amendment to the 2008 Westfield OPA in order to finalize the project and commence receiving tax increment reimbursements. A Temporary Certificate of Occupancy (C of O) was issued for the project in 2009 allowing the mall to operate pending completion of non-life safety related items.

A substantial renovation and expansion of the mall has been completed, consistent with the plans reviewed and approved by the Agency Board and presented to the community. The renovation and expansion was valued at $168 million dollars and included a 167,000 sq. ft. expansion, new restaurants, new major tenants, re-tenanting of the mall, outdoor dining along the west and north mall frontage, new interior food court, new common areas, entirely new building finishes, landscape and hardscape, and parking structure and surface parking improvements. Thus Westfield

Culver City has met the Agency Board and community expectations and produced a first rate regional shopping mall that provides a regional retail and entertainment draw to the area. The redeveloped project has successfully operated since October 2009 and has performed well as outlined on the attached table summarizing annual gross receipts. (Please see Attachment No. 2)

Final completion of the mall requires the following items which can be addressed through a letter of credit covering the cost of the improvements in the event they require additional time for completion.

- Modification of existing pedestrian stairway along Hannum Avenue ;
- <u>Covenant Joining Project site Parcels; and,</u>
- Implementation of an employee Congestion Management Plan Transportation Demand Program (TDM).

<u>DISCUSSION:</u>

The purpose of the First Amendment is to clarify certain provisions for the calculation of and the procedures for payments by the Agency to the Developer under the OPA, including clarifying the Developer's conditions precedent to disbursement and establishing more specific provisions for the timing and other procedures for such disbursements. Under the First Amendment, the Agency is not increasing the amount of future annual payments to Developer nor, in any event, is the total amount payable to the Developer under the OPA increasing. Further, by entering into the First Amendment and thereby amending the OPA, the Agency is not waiving any rights or remedies with respect to pending appeals filed by Developer for certain tax assessments which appeals are prohibited.

The Agency Board is requested by Westfield Corporation to consider the following:

- Whether the OPA should be amended to allow more latitude on reimbursement from the date of opening (temporary C of O) October 2009 rather than C of O which has yet to be issued. Advancing the funding will not resulting in a net increase in the amount pledged to Westfield, but rather an earlier payment than originally identified in the OPA.
- Whether the OPA payment schedule should be modified to allow a 50% partial reimbursement of net new tax increment at mid-year and the balance paid at the end of the tax year. Finance believes that this would not adversely affect the Agency's cash flow. Based upon the earlier commencement date and this payment formula, the amount due Westfield is $882,000.[2]
- Whether to support Westfield's assessment appeal. Agency Counsel and KMA believe that the affect on the Agency's tax increment would be minimal.

FISCAL ANALYSIS:

Acceleration of the tax increment reimbursement does not result in a higher reimbursement to Westfield Corporation beyond that pledged in the original OPA, but it does require an earlier start date for reimbursement. If the OPA is amended the proposed formula for reimbursement would continue for nine years pursuant to the reimbursement schedule in the OPA. The mall has produced sale and property tax benefits that will inure to the City for many years beyond the reimbursement period. Additionally the presence of a high quality mall provides economic synergy with the Fox Hills Business Park and surrounding hotels which has a positive economic value. Sufficient funds have been appropriated in the FY 2010-11 budget (55092400) to cover the proposed reimbursement of net new tax increment.

ATTACHMENTS:

1. First Amendment to the 2008 Owner Participation Agreement between the Redevelopment Agency and Westfield Corporation.
2. Summary of Gross Receipts
3. Summary of Letter of Credit Requirements

MOTIONS:

That the Agency Board:

1) Approve the First Amendment to the 2008 Westfield Owner Participation Agreement; and,

2) Authorize the Executive Director or designee to execute the document on behalf of the Agency.

NOTES:

1. Date of completion is defined as receipt of a Certificate of Occupancy and filing of a Notice of Completion.
2. The calculation is as follows: $1.008 million/year for the estimated 50% payment for tax increment for the period October 2009 through June 2011 with estimated tax increment from new commencement date at issuance of temporary C of O (October 2009) rather than C of O.