City of Culver City, California
Agenda Item Report

Meeting Date: 11/30/2009	Item Number: A-1
REDEVELOPMENT AGENCY BOARD AGENDA ITEM: Approval of a First Amendment to the Disposition and Development Agreement and Revised Grant Deed Covenant at 5660 Sepulveda Boulevard.	
Contact Person/Dept.: John Fisanotti	Phone Number: (310) 253-5767
Fiscal Impact: Yes [X] No []	General Fund: Yes [X] No []
Public Hearing: [] Action Item: [X]	Attachments: []
Commission Action Required: Yes [] No [X]	Date: ________________
Public Notification: Meetings and Agendas – Redevelopment Agency (11/25/09)	
Department Approval: Sol Blumenfeld (11/25/09)	Agency General Counsel Approval: Murray O. Kane (11/25/09)
Chief Financial Officer Approval: Mark Scott (11/25/09)	Executive Director Approval: Mark Scott (11/25/09)

RECOMMENDATION:

Staff recommends that the Redevelopment Agency Board (the "Board") approve a first amendment to the Disposition and Development Agreement (the DDA) and Revised Grant Deed Covenant (Grant Deed Covenant) for the property located at 5660 Sepulveda Boulevard (the Site).

BACKGROUND:

The Site is subject to a Disposition and Development Agreement entered into between the Culver City Redevelopment Agency (the "Agency") and Circuit City, Inc., on July 11, 1994. Circuit City closed the store and ceased all business nationwide in March 2009. Before Circuit City closed, the Site was sold in a package deal, which included other Circuit City store locations, to Developers Diversified Realty (DDR).

The Agency's DDA and the Grant Deed, which conveyed the Site from the Agency to Circuit City, contained a covenant which specified the type of retail business and required a gross sales tax threshold ($429.50). The covenant is to protect the Agency's investment in the Site, and to ensure that all future users met a standard of quality approved by the Agency.

On July 7, 2009, DDR signed a lease with Sprouts Farmers Market, LLC, ("Sprouts") a grocery store, to occupy the Site. Based upon the criteria in the DDA and the Grant Deed Covenant which defines eligible businesses for the Site, Sprouts is not an eligible tenant. Pursuant to Agency negotiation direction regarding its real property covenant, which staff received at the meetings on October 12, October 26, and November 16, 2009, staff negotiated a resolution with DDR, which will permit Sprouts to occupy the Site. To memorialize the resolution, certain documents which affect the Site must be amended.

DISCUSSION:

In the current economy, the number of retailers which could occupy 32,000 square feet and have existing taxable sales generation of $429.50 per square foot is extremely limited. It should be noted that the criteria is used in the DDA and Grant Deed Covenant only to determine eligibility to occupy the site, it is not a performance criteria guaranteeing any specified level of taxable sales to be generated at the Site

Sprouts is a high quality grocery store providing healthy food at a modest price. Most of Sprouts sales are non-taxable. Based upon the data provided by Sprouts, its taxable sales fall far short of the current qualifying standard in the DDA. Although Sprouts does not match the economics of a Circuit City, it gives residents convenient grocery shopping at moderate cost thereby providing benefits to residents of the redevelopment project area and justifying the proposed change to the DDA and Grant Deed Covenant. Although a store like Sprouts produces significantly less sales tax revenue to the City than Circuit City, given the current economy, a comparable successor to Circuit City may not be found. The need to return the Site to a productive use, overrides the DDA provision which may be unattainable.

The proposed amendments to the DDA and Grant Deed Covenant will permanently eliminate the qualifying restriction for the Site. For consideration of the amendments, DDR will pay the City $50,000.00, payable in two installments of $25,000.00 each. The first installment from DDR to the City will be due upon Sprouts obtaining a building permit and opening, and the second installment will be due 1 year after opening. In the event that DDR fails to pay the second installment, the Agency may terminate the proposed amendment and reinstate the original restrictions.

Specific Deal Points

To effectuate the above arrangement, in summary the following actions are required:

1. Modify the use restrictions on potential occupants of the Site by eliminating the requirement that the sales tax per square foot generated by existing stores of the same retailer, meet or exceed the levels specified in Section 401 (d) of the Disposition and Development Agreement and Section II. B.2 of the Grant Deed; and,

2. Require Developers Diversified Realty to pay to the City $50,000.00 payable as follows: One payment of $25,000 upon Sprouts Farmers Market receiving a building permit and opening for business at the Site and a second payment of $25,000, due after one year of operation.

FISCAL ANALYSIS:

The fiscal impact to the Agency's tax increment revenue, derived from the Site's property tax, is minimal. The change is not expected to greatly alter the assessed property tax value.

The average annual sales tax revenue received by the City from Circuit City was significant over its 14 year operating period. Based upon data supplied by Sprouts, the Culver City store is anticipated to generate significantly less sales tax. In addition, the City will receive the sum of $50,000 from DDR over a one-year period.

MOTION:

That the Redevelopment Agency Board:

1. Approve a First Amendment to the Disposition and Development Agreement affecting the Site at 5660 Sepulveda Boulevard

2. Authorize the Agency General Counsel to review/prepare all necessary documents deemed necessary and appropriate by Agency General Counsel to execute, carry-out, and enforce said First Amendment; and,

3. Authorize the Executive Director to execute such documents on behalf of the Agency and to take all other necessary actions to administer any Agency obligations, responsibilities, and duties to be performed thereunder.