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Agency Counsel

Revised
REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND
2011-0063
Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO EXECUTE A THIRD AMENDMENT TO THE OAKLAND ARMY BASE EXCLUSIVE NEGOTIATING AGREEMENT (“ENA”) WITH AMB PROPERTY, L.P./CALIFORNIA CAPITAL GROUP (“DEVELOPER ENTITY”) CONSENTING TO A CHANGE IN THE DEVELOPER ENTITY TO PROLOGIS PROPERTY, L.P./CCIG OAKLAND GLOBAL, LLC, RESULTING FROM (1) THE REORGANIZATION AND MERGER OF AMB PROPERTY, L.P. INTO PROLOGIS PROPERTY, L.P.; AND (2) CALIFORNIA CAPITAL GROUP’S ASSIGNMENT OF ALL ITS INTERESTS AND OBLIGATIONS UNDER THE ENA TO CCIG OAKLAND GLOBAL, LLC

WHEREAS, the Redevelopment Agency of the City of Oakland and AMB Property, L.P./California Capital Group (together referred to as the “Parties”) entered into an Exclusive Negotiating Agreement, dated January 22, 2010, for the potential redevelopment of a portion of the former Oakland Army Base (the “Original Agreement”); and

WHEREAS, the Parties entered into a First Amendment to the Original Agreement (the “First Amendment”) on August 10, 2010, and a Second Amendment to the Original Agreement (the “Second Amendment”) on April 11, 2011; and

WHEREAS, the Original Agreement, as amended by the provisions of the First Amendment and Second Amendment, is referred to herein as the ENA; and

WHEREAS, AMB Property Corporation, the parent company of AMB Property, L.P. (“AMB”), has merged with ProLogis, and AMB Property Corporation, the surviving entity, has been renamed “ProLogis, Inc;” and

WHEREAS, as a result of the merger, AMB has been renamed ProLogis Property, L.P; and

WHEREAS, under the Second Amendment, the Agency waived its advertising and request for proposal/qualifications process, and agreed that California Capital Group (“CCG”), in its role as one of the Developer parties under the ENA, would contract with an approved team of various consultants and contractors (individually, “Subconsultant” or collectively, “Subconsultants”), and oversee and coordinate their activities to complete the planning and design work required for the construction of infrastructure, public utilities, and public streets on the former Army Base (the “Master Infrastructure Planning Work”); and

WHEREAS, CCG wishes to assign all of its rights, title, interests, and obligations in, to and under the ENA to CCIG Oakland Global, LLC, a related limited liability company; and CCIG wishes to assume all of CCG's rights, title, interests and obligations under the ENA, including the contracting and oversight of consultants and contractors for the infrastructure planning and design work; and

WHEREAS, the ENA is personal to the Developer Entity and not assignable to any other person or entity without the written consent of the Agency Board, which may be given or refused in the Agency's sole and absolute discretion;

WHEREAS, as a condition of the Agency's consent to the assignment to be documented in a Third Amendment ("Third Amendment") to the ENA, and except for any contracts regarding the Master Infrastructure Planning Work with an approved Subconsultant, as set forth in the Second Amendment, any new contract for any work under the ENA, as amended, executed by ProLogis Property, L.P or CCIG Oakland Global, LLC that is executed after the effective date of the Third Amendment be subject to prior Agency Board approval if the contract amount exceeds: (1) fifty thousand dollars (\$50,000), if funded directly or indirectly by Redevelopment Agency funds; or (2) one hundred thousand dollars (\$100,000), if funded by non-Redevelopment Agency funds; and

WHEREAS, as a further condition of the Agency's consent to the assignment to be documented in a Third Amendment, the Agency will require that CCIG and Agency staff work directly together to ensure greater transparency in the availability of contracting opportunities to achieve greater participation and diversity of contracts for the Master Infrastructure Planning Work; and

WHEREAS, Section 13.3 of Exhibit D of the ENA (Schedule of Performance) requires the proposed Army Base developer to use reasonable efforts to negotiate a Community Benefits Agreement to be part of the Lease Disposition and Development Agreement ("LDDA") for the Army Base, which includes an immediate emphasis on workforce development and hiring for construction and operational phases of the proposed development; and

WHEREAS, as a further condition of the Agency's consent to the assignment to be documented in the Third Amendment, the Agency requires that Section 13.3 of ENA Exhibit D be amended to add a statement that, subject to any preempting Federal requirements, the parties will negotiate specific local hiring goals as part of the Community Benefits Agreement to be included in the LDDA; and

WHEREAS, because of the California Supreme Court's issuance of a partial stay in the matter of California Redevelopment Association v. Matosantos (S194861), the ability of redevelopment agencies to take some actions may be questionable until that litigation is resolved; now, therefore, be it

RESOLVED: That the Agency Board hereby approves of the following subject to Agency Counsel and the Agency Administrator determining if the Agency can take the actions authorized by this resolution under the terms of the partial stay in California Redevelopment Association v. Matosantos:

- 1) The assignment of CCG's rights, title, interests, and obligations in, to and under the ENA to CCIG Oakland Global, LLC,
- 2) CCIG's assumption of all of CCG's rights and obligations under the ENA; and
- 3) The replacement of AMB with ProLogis Property, L.P. as one of the Developer Parties to the ENA; and be it

FURTHER RESOLVED: That, except for any contracts regarding the Master Infrastructure Planning Work with an approved Subconsultant, as set forth in the Second Amendment, the Third Amendment will require that any new contract for any work under the ENA, as amended, executed by ProLogis Property, L.P or CCIG Oakland Global, LLC after the effective date of the Third Amendment be subject to prior Agency Board approval if the contract amount exceeds: (1) fifty thousand dollars (\$50,000), if funded directly or indirectly by Redevelopment Agency funds; or (2) one hundred thousand dollars (\$100,000), if funded by non-Redevelopment Agency funds; and

FURTHER RESOLVED: That the Third Amendment will require that CCIG and Agency staff work directly together to ensure greater transparency in the availability of contracting opportunities to achieve greater participation and diversity of contracts for the Master Infrastructure Planning Work; and

FURTHER RESOLVED: That the Third Amendment will require that Section 13.3 of Exhibit D to the ENA be amended to add a statement that, subject to any preempting Federal requirements, the parties will negotiate specific local hiring goals as part of the Community Benefits Agreement to be included in the LDDA; and

FURTHER RESOLVED: That the Agency Administrator is authorized to negotiate and execute a third amendment to the ENA reflecting the change in the Developer Entity to Prologis Property, L.P./CCIG Oakland Global, LLC, and the assumption of ENA obligations by the new entities and be it

FURTHER RESOLVED: That the Agency Administrator is authorized to take whatever other action is necessary to implement the Third Amendment to the ENA; and be it

FURTHER RESOLVED: That Agency Counsel shall review and approve the Third Amendment authorized hereunder for form and legality, and a copy or copies shall be placed on file in the Office of the City Clerk.

SEP 20 2011

IN AGENCY, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

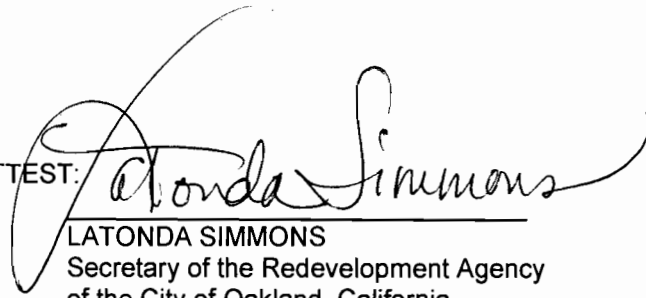
AYES - BRUNNER, ~~KEARNEY~~, NADEL, ~~SEYING~~, ~~DELAHAYE~~, BROOKS, KAPLAN, AND
CHAIRPERSON REID -5

NOES - De La Fuente, Kernighan, SchAAF- 3

ABSENT - 0

ABSTENTION - 0

ATTEST:

A handwritten signature in black ink, reading "Latonda Simmons". The signature is written in a cursive style with a large, sweeping initial "L".

LATONDA SIMMONS

Secretary of the Redevelopment Agency
of the City of Oakland, California