



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2014 SEP -4 AM 9: 34

AGENDA REPORT

TO: HENRY L. GARDNER
INTERIM CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Sears Lease Disposition
And Development Agreement
Amendment

DATE: August 21, 2014

City Administrator
Approval

Date

9-3-14

COUNCIL DISTRICT: 3

RECOMMENDATION

Staff recommends that the Oakland Redevelopment Successor Agency (ORSA) approve:

A Resolution Authorizing An Amendment to a Lease Disposition and Development Agreement with Sears Development Company for an Automotive Service Project located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way to: (1) Approve the Assignment of the LDDA to W/L Broadway Telegraph Owner VII, LLC, or an affiliated entity, or an affiliate of Lane Partners, LLC and/or Walton Street Capital, LLC; (2) Extend Development Deadlines for the Project; 3) Reduce a Contingent Payment Obligation to W/L Broadway Telegraph Owner VII, LLC or related entities from \$1,600,000 to \$1,575,000; and 4) Require the Payment of \$100,000 to the Successor Agency as Consideration for the Assignment and Extension

EXECUTIVE SUMMARY

Staff is recommending that ORSA adopt legislation authorizing an amendment to a Lease Disposition and Development Agreement ("LDDA") with Sears Development Company ("Sears") for an Automotive Service Project ("Project") to be developed at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkley Way (the "LDDA Property") to 1) assign the LDDA to W/L Broadway Telegraph Owner VII, LLC ("BTO"), or an affiliated entity, or an affiliate of Lane Partners, LLC, and/or Walton Street Capital, LLC; (2) extend development deadlines for the Project by up to 96 months, changing it from the currently stipulated date of October 2010 to October 2018; 3) reduce a contingent payment obligation to BTO from \$1,600,000 to

Item: _____
CED Committee
September 16, 2014

\$1,575,000; and 4) require payment of \$100,000 to the Oakland Redevelopment Successor Agency ("ORSA") as consideration for the assignment and extension.

In July of 2014, BTO purchased the Sears department store in downtown Oakland. Sears has requested that the LDDA be assigned to BTO or an affiliate to assume responsibility for development of the LDDA Property and BTO, in turn, has asked that the LDDA be amended to extend missed development deadlines. Staff has determined that BTO and its founding members, Lane Partners, LLC and Walton Street Capital, LLC, have the capacity and experience to develop the LDDA property, and that the proposed extension to the schedule of performance is reasonable.

If the LDDA is not assigned to BTO and the development deadlines are not extended, Sears will be in default. In this case, according to the terms of the LDDA, ORSA must pay Sears \$1.6 million.¹

If Council approves assignment of the LDDA from Sears to BTO, BTO has agreed to reduce the contingent payment of \$1,600,000 to \$1,575,000.

OUTCOME

Extending development deadlines for completion of the Project and assigning the LDDA to BTO will avoid a default by Sears for not completing development of the LDDA Property by the originally required date of October 2010. The proposed amendment will both substantially reduce and delay ORSA's and the other taxing agencies' contingent liability of having to make the payment of \$1.6 million to Sears, or, if approved as successor in interest, to BTO. BTO has also agreed to decrease this contingent payment from \$1,600,000 to \$1,575,000, thus further reducing the taxing agencies' potential financial liability. Furthermore, the proposed amendment and transfer of development rights to BTO will bring in a qualified company for the development of the LDDA Property and provide additional time for BTO to complete all predevelopment activities and start construction.

BACKGROUND/LEGISLATIVE HISTORY

On October 18, 2005, the Redevelopment Agency (Agency), pursuant to Resolution No. 2005-38 C.M.S., dated June 21, 2005, acquired a property located at 1911 Telegraph Avenue from Sears as part of the site assembly for the development of the Uptown apartments. The property at Telegraph Avenue was partially occupied by a Sears Auto Center and ancillary parking. At the

¹ The former Redevelopment Agency acquired other property at 1911 Telegraph from Sears for the Uptown Project. Rather than pay Sears for the 1911 Telegraph property at that time, the parties agreed that Sears, at its option, would receive either: (1) the Property; or (2) a payment by the Successor Agency of \$1.6 Million (representing the proportional value of the 1911 Telegraph property).

time, Sears considered the auto center to be an integral component of its retail operation in downtown Oakland and requested that the Agency, as part of the transaction, deliver a site next to the department store for the relocation of the automotive services facility. Accordingly, the Agency acquired the LDDA Property, which is located across from the department store, for the development of a new auto center.

On October 18, 2005, the Agency, pursuant to Resolution No. 2005-38 C.M.S., also entered into a LDDA with Sears for the development of the Project on the LDDA Property. Sears was to complete the Project within 60 months of execution of the LDDA, or in October of 2010. Sears did not meet this deadline and the LDDA Property was not transferred to them. The LDDA provides that if Sears does not develop the Project, the agreement can be terminated and Sears would be entitled to a payment of \$1.6 million. This contingent payment, which is listed on the Recognized Obligation Payment Schedule ("ROPS"), is an obligation of ORSA.

In January of 2012, the LDDA Property was transferred from ORSA to the City. However, as part of the dissolution of the Agency, the California Department of Finance ("DOF") stipulated that the LDDA Property be transferred back to ORSA. Accordingly, ORSA in anticipation of receiving title to the Property shortly, included the site in a Long Range Property Management Plan required by DOF as property to be held to satisfy an existing contractual obligation, namely the LDDA with Sears. The assignment of the LDDA and any amendments to the LDDA will therefore require Oversight Board and DOF approval.

On April 11, 2013, pursuant to Ordinance No. 13159 C.M.S., the City Council authorized the City Administrator to negotiate and execute an LDDA amendment with Sears: (1) assigning the LDDA to Strategic Urban Development Alliance, LLC ("SUDA"); and (2) extending the Project completion date by 72 months from October 2010 to October 2016. Sears' sales negotiations with SUDA were unsuccessful and Sears did not execute the amendment.

Subsequently in 2014, BTO was able to come to an agreement with Sears and closed on the purchase of the department store in July. As part of the transaction, BTO also acquired Sears' rights under the LDDA, subject to ORSA's approval. Sears now wishes to assign the LDDA to BTO for development of the LDDA Property.

ANALYSIS

Assignment of the LDDA to BTO

Sears has requested that ORSA approve the assignment of the LDDA to BTO. The terms of the LDDA restrict Sears from transferring the LDDA Property or developer rights without express consent and authorization of the Successor Agency. LDDA Section 11.3 further limits ORSA's basis for approving a transfer to whether or not the transfer is being made to an entity or individual that has the expertise and financial capability to develop the site.

Item: _____
CED Committee
September 16, 2014

BTO or W/L Broadway Telegraph Owner VII, LLC is a limited liability corporation formed by Walton Street Capital, LLC and Lane Partners, LLC. Walton Street Capital, LLC was established in 1994 and is based in Chicago, Illinois. The company has invested and/or committed to invest approximately \$7 billion of equity in approximately 250 separate transactions in U.S. and international real estate, including the development and acquisition of office, hotel, retail, industrial, multi-family, for-sale residential, senior and student housing, and golf assets through both individual, portfolio and company-level transactions. As such Walton Street Capital has the capacity and experience to provide financing for the development of the LDDA Property.

Lane Partners LLC, the other entity that makes up BTO, was formed in January of 2006 for the purposes of acquiring, developing, and managing institutional-quality real estate throughout Northern California. The company specializes in physical rehabilitations, lease up and re-structuring, entitlements and general repositioning of real estate assets. Currently, Lane Partners owns approximately 2 million square feet of mostly office space in Silicon Valley. A list of past and current projects is attached to this report (*Attachment A*). These projects are primarily located in the south bay, with a few in San Francisco and the peninsula. Lane Partners' tenants are mainly technology companies, including Apple, the Arris Group, Verint Systems, SunPower, Evernote and BAE Systems. Walton Street Capital, LLC and Lane Partners, LLC, have collaborated in the past on repositioning an office center in Menlo Park.

BTO considers the LDDA Property to present an important development opportunity that will support its renovation of the Sears department store. In this regard, staff understands that the development team is also evaluating the feasibility of other options for the LDDA Property with the goal to arrive at a project that will support and complement BTO's plans for the Sears building. Any such plans, however, are only speculative at this time. At this juncture, the City is only authorized to transfer the LDDA Property for development of an auto center as required under the LDDA. Any new use will require consideration of a concrete proposal, as and when developed, and associated new analysis pursuant to the California Environmental Quality Act (CEQA) before the City can issue discretionary approvals, such as any future amendments to the LDDA if BTO changes the project scope.

Staff has reviewed Lane Partners' and Walton Street Capital's qualifications and determined that the companies have the expertise and capacity to finance and develop the LDDA Property. A transfer of the LDDA to BTO would give them the right to enter into a long-term lease or take title to the LDDA Property upon meeting certain predevelopment requirements, such as securing financing and obtaining building permits for the project.

BTO has also agreed to provide a commercial completion guaranty that is executed by a guarantor who must demonstrate to ORSA's satisfaction that it has a financial net worth in liquid assets of the greater of: (a) the estimated cost to complete the Project; or (b) \$3 million (the current anticipated costs of developing an auto center), along with a continuing covenant that the guarantor will maintain such net worth at least through Project completion.

Lastly, BTO is prepared to pay \$100,000 for the schedule extension to ORSA, which presents an increase in revenues to the taxing entities since this fee will be distributed to them. Not allowing the proposed LDDA transfer will likely impact BTO's ability to effectively reposition the Sears building.

The LDDA Amendment

BTO's development plan for the Sears building includes retention of the current retail area on the ground floor. In addition, BTO envisions a reconfiguration of the other floors of the building to create large floor plate office space that will attract technology tenants. Many technology, marketing, and design firms prefer "creative office space", which often entails such features as wood floors, high ceilings, exposed brick walls, or heavy timber wood beams. Although the Sears department store, which opened on August 5, 1929, was damaged in the 1989 Loma Prieta earthquake, it still features many of the interior historic design elements that are appealing to contemporary technology firms. BTO is confident that a modernized building retaining many of these distinguishing characteristics will be very attractive to this type of tenant.

BTO and its design team are currently focusing on the renovation of the Sear's building and would like to get that project underway over the next six months before turning their attention to the development of the LDDA Property. Extending the performance schedule for the completion of the Project by 96 months, or from October 2010 to October 2018, will give the developer 48 months as of October of this year to complete all necessary predevelopment work and commence construction on the LDDA Property with a target completion date of October 2018. Staff considers BTO's request to extend the date of Project completion reasonable at this time.

Sears's Liability

Another issue in this context is whether to release Sears from any obligations under the LDDA once it has assigned its rights to the LDDA Property to BTO. It is often the case in an assignment of development rights that the original party, in this case Sears, is not released from its obligations under the LDDA, which would give ORSA additional recourse to a second party in addition to the assignee. However, Sears will end its operations in late August and leave Oakland, and will likely take issue with continued liability under the terms of the LDDA. If the LDDA is assigned to BTO, ORSA can require Sears to maintain its obligations or, alternatively, release Sears from liability. If the property is taken back, the City will likely execute a new DDA or LDDA and only the new developer will have obligations under this DDA/LDDA. Staff recommends that Sears be released from any obligations under the LDDA after an assignment of its rights to the LDDA Property to BTO has been approved by the City Council.

Agency's Rights and Remedies

The LDDA requires ORSA to pay Sears \$1.6 million if Sears, or BTO as successor in interest, does not develop the LDDA Property, whether or not there is a default. As noted above, the

Agency acquired other property at 1911 Telegraph from Sears for the development of the Uptown apartments. Rather than pay Sears for the 1911 Telegraph property at that time, the parties agreed that Sears, at its option, would receive either: (1) the Property; or (2) a payment by ORSA of \$1.6 million (representing the proportional value of the 1911 Telegraph property).

Since Sears has not completed construction of a Project by the current LDDA deadline, ORSA could declare Sears in default, and pay Sears \$1.6 million pursuant to the terms of the LDDA. Extending development deadlines for completion of the Project and assigning the LDDA to BTO will avoid a default, and thus substantially reduce ORSA contingent liability to pay \$1.6 million to Sears, or, if approved as successor in interest, to BTO. However, in return for the assignment of the LDDA, BTO has agreed to a reduction of this contingent payment to \$1,575,000.

Oakland Oversight Board and California Department of Finance Approvals

The proposed amendment to the LDDA must be submitted to the Oakland Oversight Board and DOF for approval. California Health and Safety Code Section 34181(e) authorizes a successor agency, with the approval of the oversight board and the California Department of Finance, to amend agreements if the amendment (1) reduces liabilities to the taxing entities, (2) increases net revenues to the taxing entities, and (3) is in the best interests of the taxing entities.

The proposed amendment to the LDDA will reduce liabilities to the taxing entities by decreasing the amount of the contingent payment obligation to BTO from \$1,600,000 to \$1,575,000, which is a liability now faced by the taxing entities since such payment would be made under the ROPS from Real Property Tax Trust Funds ("RPTTF") otherwise distributed to the taxing entities. The proposed amendment will increase net revenues to the taxing entities by requiring a payment of \$100,000 to ORSA as consideration for the assignment and extension, which will be applied to cover existing obligations identified on the ROPS and thus result in a reduction of funding in an equal amount that would have been received from the RPTTF to pay for such obligations. Lastly, the proposed amendment will be in the best interests of the taxing entities by reducing the liabilities of and increasing net revenues to the taxing entities, as well as facilitating development of the Project which will have fiscal and other benefits to the taxing entities.

PUBLIC OUTREACH/INTEREST

There is no public outreach required for adoption of the proposed legislation.

COORDINATION

The following City departments were consulted during the preparation of this report:

- Office of the City Attorney

Item: _____
CED Committee
September 16, 2014

- City Budget Office

COST SUMMARY/IMPLICATIONS

The LDDA Extension Fee

BTO will pay ORSA a fee in the amount of \$100,000 for the proposed amendment to extend development deadlines. These funds will be deposited into the Successor Redevelopment Agency (SRA) Central District: Operations Fund (Fund 9710), Organization: Central District Redevelopment (#85245), with a new project to be created, to cover existing obligations, which will result in a reduction of funding in an equal amount that would have been received from the Redevelopment Property Tax Trust Fund to pay for such obligations.

Loss of Tax Receipts

Sears' request for the extension will delay the City's receipt of property, sales, utility and business taxes generated by the Project. The net loss of property taxes to the City is approximately \$11,400 per year as a result of not having a stand-alone Sears Auto Center on the site as of October of 2010.

Parking Lease Revenue

ORSA is receiving \$42,000 per year from leasing the Property to Star Park. These revenues are used to support property maintenance and other activities related to properties formerly owned by the Redevelopment Agency. Once the Property is transferred to BTO, which is anticipated to occur in 2016, these revenues will no longer be available.

Payment to Sears

As stated above, the LDDA requires ORSA to pay Sears \$1.6 million if Sears, or a successor in interest, does not develop the Property, whether or not Sears is in default. Since Sears has not completed construction of a Project by the current LDDA deadline, ORSA could declare Sears in default, and ORSA would have to pay Sears \$1.6 million pursuant to the terms of the LDDA. Extending development deadlines for completion of the Project and assigning the LDDA to BTO will avoid a default by Sears, and thus substantially reduce the possibility that ORSA will have to pay \$1.6 million to Sears, or, if approved as successor in interest, to BTO. The potential obligation of \$1.6 million is currently listed on the Recognized Obligation Payment Schedule (ROPS). BTO has agreed to a reduction of this contingent payment to \$1,575,000.

FISCAL/POLICY ALIGNMENT

The proposed Project supports the following goal as identified in the current Central District Project Area Redevelopment Plan:

- Revitalization and strengthening of the Oakland Central District's historical role as the major regional retail center for the Metropolitan Oakland Area.

The completed project will generate property, sales, utility and business taxes for the City and other taxing entities.

SUSTAINABLE OPPORTUNITIES

Economic:

Eventual development of the Project will bring an underutilized site in the heart of the Uptown district back to economically viable use.

Environmental:

BTO would endeavor to include as many "green building" features in a new development on the LDDA Property as possible.

Social Equity:

A number of the potential construction and permanent jobs to be created by the development of the Project may be available to low and moderate income individuals, including area residents.

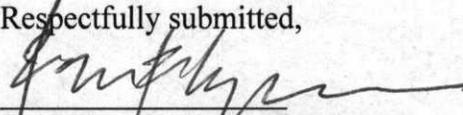
CEQA

The City of Oakland, for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), prepared a focused Environmental Impact Report for the Uptown apartments, which included environmental review of the Project, analyzing the significant environmental effects and mitigation measures in accordance with the California Environmental Quality Act, Public Resources Code § 21000, et seq. On February 18, 2004, the City Council, in accordance with CEQA Guidelines § 15090, certified that a Final Environmental Impact Report ("EIR") on the Project has been completed in compliance with CEQA, and the Guidelines for Implementation of the California Environmental Quality Act. At this time, there are no changes to the Project, new information, or changes in circumstances that would result in new significant environmental impacts or substantially more severe impacts from those previously identified in the EIR and later addenda. Therefore, no further environmental evaluation is required, and no Supplemental/ Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162. Moreover, the Mitigation Monitoring and Reporting Program approved in 2005 is still applicable to the development of the Project.

Item: _____
CED Committee
September 16, 2014

For questions regarding this report, please contact Jens Hillmer, Urban Economic Coordinator at 238-3317.

Respectfully submitted,



Rachel Flynn, Acting Director
Economic & Workforce Development Department

Reviewed by: 
Gregory Hunter
Economic & Workforce Development
Department, Project Implementation Division

Prepared by:
Jens Hillmer
Economic & Workforce Development
Department, Project Implementation Division

Attachment A – Previous and Current Lane Partner Projects

Attachment A – Previous and Current Lane Partner Projects

Project Name	Project Type	Project Scope	Location	Size (SF)	Role	Completion Date
Rio Pobles	Office	Major Rehabilitation	North San Jose	186,000	Developer	2011
Cupertino City Center	Office	Minor Rehabilitation	Cupertino	300,000	Developer	2010
Menlo Corporate Center	Office	Minor Rehabilitation	Menlo Park	378,000	Asset Manager	2010
2811 Orchard Parkway	Office	Minor Rehabilitation/Tenant Improvements	San Jose	85,000	Developer/Asset Manager	2011
Bay Shore Center	Office	Major Rehabilitation	San Jose	100,000	Developer	On-going
North First Street	Office	Major Rehabilitation	San Jose	75,000	Owner/Developer	On-going
Walsh Avenue	Office	Major Rehabilitation	Santa Clara	190,000	Owner/Developer	On-going
Sunnyvale Crossing	Office	Major Rehabilitation	Sunnyvale	290,000	Owner/Developer	2014
Orchard Commons	Office	Major Rehabilitation	San Jose	315,000	Owner/Developer	On-going
Fremont Tech Park	Office	Major Rehabilitation	Freemont	140,000	Owner/Developer	On-going
Sunnyvale Peery Park	Office	Major Rehabilitation	Sunnyvale	510,000	Developer	On-going
Broadway Station	Office	New Construction	Redwood City	190,000	Developer	2017
Alma Station	Office	New Construction	Menlo Park	25,000	Developer	2017

2014 SEP -4 AM 9:34

APPROVED AS TO FORM AND LEGALITY:

BY: *R. McLean*
ORSA COUNSEL

OAKLAND REDEVELOPMENT SUCCESSOR AGENCY

Resolution No. 2014-_____

A SUCCESSOR AGENCY RESOLUTION AUTHORIZING AN AMENDMENT TO A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT ("LDDA") WITH SEARS DEVELOPMENT COMPANY FOR AN AUTOMOTIVE SERVICE PROJECT LOCATED AT 2000-2016 TELEGRAPH AVENUE AND 490 THOMAS L. BERKELEY WAY TO: (1) APPROVE THE ASSIGNMENT OF THE LDDA TO W/L BROADWAY TELEGRAPH OWNER VII, LLC, OR AN AFFILIATED ENTITY, OR AN AFFILIATE OF LANE PARTNERS, LLC AND/OR WALTON STREET CAPITAL, LLC; (2) EXTEND DEVELOPMENT DEADLINES FOR THE PROJECT; (3) REDUCE A CONTINGENT PAYMENT OBLIGATION TO THE OWNER FROM \$1,600,000 TO \$1,575,000; AND (4) REQUIRE THE PAYMENT OF \$100,000 TO THE SUCCESSOR AGENCY AS CONSIDERATION FOR THE ASSIGNMENT AND EXTENSION

WHEREAS, on October 18, 2005, the dissolved Redevelopment Agency ("Agency"), pursuant to Resolution No. 2005-38 C.M.S., entered into a Lease Disposition and Development Agreement ("LDDA") with Sears Development Company ("Sears") for the development of a new automotive service facility (the "Project") on property located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way (the "LDDA Property"); and

WHEREAS, the Agency acquired other property at 1911 Telegraph from Sears for the Uptown Project, and instead of paying Sears, the parties agreed that Sears, at its option, would receive either: (1) the LDDA Property; or (2) a payment by the Agency of \$1.6 million (representing the proportional value of the 1911 Telegraph property); and

WHEREAS, the Agency dissolved on February 1, 2012; and

WHEREAS, the Oakland Redevelopment Successor Agency ("ORSA") was established as the successor agency to the Agency pursuant to Health and Safety Code Sections 34171(j) and 34173; and

WHEREAS, ORSA has listed the LDDA, including the contingent payment, as an enforceable obligation on its Recognized Obligation Payment Schedule and must pay Sears \$1.6 million if Sears, or a successor in interest, does not develop the LDDA Property, whether or not Sears is in default; and

WHEREAS, Sears made good faith efforts to complete the Project by October 2010, as specified in the LDDA, but was unable to do so because the continuation of adverse economic conditions in downtown Oakland's real estate markets made development of the Project financially infeasible; and

WHEREAS, Sears has sold its department store and, subject to ORSA's approval, its rights to the LDDA to W/L Broadway Telegraph Owner VII, LLC ("BTO"); and

WHEREAS, Sears has requested that the LDDA be transferred to BTO or an affiliate to assume responsibility for development of the LDDA Property, and BTO has asked that the LDDA be amended to extend missed development deadlines in return for a payment of \$100,000 to ORSA; and

WHEREAS, BTO and its founding members present a qualified development company based in the Bay Area that has the financial capacity and experience to develop the Project; and

WHEREAS, in return for the assignment of the LDDA, BTO has agreed to a reduction of the \$1.6 million contingent payment obligation of ORSA to \$1,575,000; and

WHEREAS, ORSA desires to approve the transfer of the LDDA to BTO or an affiliated entity, and to extend to the development deadlines set forth in the LDDA; and

WHEREAS, California Health and Safety Code Section 34181(e) authorizes a successor agency, with the approval of the oversight board and the California Department of Finance, to amend agreements if the amendment (1) reduces liabilities to the taxing entities, (2) increases net revenues to the taxing entities, and (3) is in the best interests of the taxing entities; and

WHEREAS, the proposed amendment to the LDDA will reduce liabilities to the taxing entities by reducing the amount of the contingent payment obligation, which is a liability now faced by the taxing entities since such payment would be made under the ROPS from Real Property Tax Trust Funds otherwise distributed to the taxing entities; and

WHEREAS, the proposed amendment will increase net revenues to the taxing entities in the form of the payment to ORSA in consideration for ORSA's approval of the assignment and extension; and

WHEREAS, the proposed amendment will be in the best interests of the taxing entities by reducing the liabilities of and increasing net revenues to the taxing entities, as well as facilitating development of the Project which will have fiscal and other benefits to the taxing entities; and

WHEREAS, the City of Oakland, as the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), prepared a focused Environmental Impact Report for the Uptown project, which included environmental review of the Project, analyzing the significant environmental effects and mitigation measures in accordance with the California Environmental Quality Act, Public Resources Code § 21000, et seq.; and

WHEREAS, ORSA is a Responsible Agency for the Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, on February 18, 2004, the City Council in accordance with CEQA Guidelines §15090 certified that the Final Environmental Impact Report ("EIR") on the Uptown project, which included the Project, has been completed in compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR sections 15000, et seq.); and

WHEREAS, ORSA has independently reviewed and considered the environmental effects of the Project as shown in the EIR and other information in the record; now therefore be it

RESOLVED: That ORSA hereby finds and determines on the basis of substantial evidence in the record that the EIR fully analyzes the potential environmental effects of the Project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA, and that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the Project or the circumstances under which the Project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); and be it further

RESOLVED: That the Successor Agency Administrator or his designee is hereby authorized to amend the LDDA to (1) approve the assignment of the LDDA to W/L Broadway Telegraph Owner VII, LLC, or an affiliated entity, or an affiliate of Lane Partners, LLC, and/or Walton Street Capital, LLC; (2) extend development deadlines for the Project by up to 96 months, changing it from the currently stipulated date of October 2010 to October 2018; (3) reduce the contingent payment to BTO from \$1,600,000 to

\$1,575,000; and (4) require payment of \$100,000 to ORSA as consideration for the assignment and extension; and be it further

RESOLVED: That any payments made to ORSA for the assignment and extension of development deadlines in the LDDA shall be deposited into SRA Central District: Operations Fund (Fund 9710); Organization: Central District Redevelopment (#02445), with a new project to be created; and be it further

RESOLVED: That the Successor Agency Administrator or his designee is authorized to negotiate and execute an amendment to the LDDA and any other document necessary to transfer the LDDA, extend development deadlines, receive payment of \$100,000 as consideration for the assignment and extension and transfer the LDDA to BTO, or an affiliated entity, reduce a contingent payment to BTO from \$1,600,000 to \$1,575,000, and take whatever action is necessary with respect to the amendment of the LDDA consistent with this Resolution and its basic purposes; and be it further

RESOLVED: That the Successor Agency Administrator or his designee is authorized to release Sears from any obligations under the LDDA after an assignment of its rights under the LDDA to BTO has been approved by ORSA; and be it further

RESOLVED: That the amendment to the LDDA and all documents necessary to carry out this Resolution as authorized hereunder shall be approved as to form and legality by ORSA Counsel and filed with the ORSA Secretary; and be it further

RESOLVED: That the amendment to the LDDA shall be submitted to the Oakland Oversight Board and the California Department of Finance for approval.

IN SUCCESSOR AGENCY, OAKLAND, CALIFORNIA, _____, 2014

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF,
and CHAIRPERSON KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
Secretary, Oakland Redevelopment

Successor Agency