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REAL ESTATE & ASSET DEVELOPMENT

COMMITTEE RECOMMENDATION

The Real Estate & Asset Development Committee recommends approval and execution of the Declaration of Restrictions and Grant of Easements between the MTA, the Long Beach Redevelopment Agency and American Stores Properties, Inc. to effectuate and implement the joint development at the Willow Street Station.

RE 3

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July 24, 1995

Los Angeles County
Metropolitan
Transportation
Authority

TO: REAL ESTATE AND ASSET DEVELOPMENT COMMITTEE

THROUGH: FRANKLIN E. WHITE

FROM: JUDITH A. WILSON *hw*

SUBJECT: AUTHORIZATION TO EXECUTE A DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS AMONG THE MTA, THE LONG BEACH REDEVELOPMENT AGENCY AND AMERICAN STORES PROPERTIES, INC. TO IMPLEMENT A JOINT DEVELOPMENT PROJECT AT THE METRO BLUE LINE WILLOW STREET STATION

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RECOMMENDATION

Staff recommends that the Board: (i) approve the terms and conditions of the Declaration of Restrictions and Grant of Easements (the "Declaration") among the MTA, the Long Beach Redevelopment Agency (the "LBRA") and American Stores Properties, Inc. ("ASPI") to effectuate and implement the joint development of neighborhood shopping and structured transit parking at the Willow Street station; and (ii) authorize the Chief Executive Officer or his designee to execute the Declaration when final documentation (including all attachments and exhibits thereto) is completed to the satisfaction of the MTA General Counsel.

A draft of the Declaration is an attachment to the Disposition and Development Agreement (the "DDA") between LBRA and ASPI which was approved by the MTA Board in June, 1995 in conjunction with its approval of the Joint Development Agreement (the "JDA") between MTA and LBRA. Staff was instructed to obtain Board approval of the final Declaration at a subsequent meeting.

DBE PARTICIPATION

Pursuant to the DDA, DBE utilization by ASPI during project design and construction will correspond with the requirements of the Redevelopment Plan for the Central Long Beach Redevelopment Project (adopted by an Ordinance of the Long Beach City Council on September 23, 1993).

ALTERNATIVES CONSIDERED

A delay in the presentation of staff recommendations concerning Board approval of the Declaration until all attachments and exhibits are completed is an alternative to the recommended course of action. However, this will cause a corresponding delay in LBRA's approval of the JDA and DDA, thereby extending ASPI's commencement of its predevelopment, construction and ground rent payment obligations to MTA and LBRA.

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MTA approval of the Declaration at this time will not jeopardize its real property and financial interests in this transaction, nor will the operation of transit be impaired by this action. The effectiveness of the Declaration will not occur until ASPI has satisfactorily completed its predevelopment obligations. Thereafter, the remedies available to MTA and LBRA as a consequence of ASPI's failure to perform its construction and operating period obligations are found within the JDA, the DDA and the Declaration.

This transaction will expand MTA's real property asset base, create transit-serving and community-serving land uses adjacent to the Willow Street Station, and generate future revenue for transit through the MTA's receipt of annual ground rent and increased transit ridership while providing the equivalent amount of transit parking in the new structure in accordance with specifications prepared by an MTA staff Task Force.

IMPACT ON BUDGET AND OBJECTIVES

There is no impact on the budget. Funds for the acquisition of the trailer park were provided by a \$9,117,000 FY '93-94 Call for Projects grant (the "Grant") to the City of Long Beach and LBRA. A portion of the Grant was used by LBRA to perform relocation activities as required by statute, with additional funding for this purpose provided by LBRA (i.e., "Local Match" to the Grant). Local Match was also used for all required site planning, studies and reports, the preparation and distribution of developer solicitations and the negotiation/documentation of the transaction. Current soil conditions do not require remediation.

This joint development transaction will provide an estimated \$21.8 million in Ground Rent over the initial 35-year term of the Ground Lease to pay for the structured transit parking and supplement future MTA capital and operating budgets.

BACKGROUND

A November 16, 1993 Memorandum of Understanding (MOU) between the City of Long Beach, LBRA and the MTA has implemented the Grant. The local match to the \$6,000,000 of Transit Capital Improvement (TCI) grant funds provided by CALTRANS includes \$3,117,000 of Prop C HOV/Park & Ride/Transit Center (25%) funds as provided by MTA, with additional funds and an "in kind" contribution of real property and services (i.e., Local Match) to be provided by LBRA.

The MTA originally received the \$6,000,000 TCI funds to relocate the Metro Blue Line Wardlow station and add 500 spaces of transit parking at that station. That project was abandoned due to environmental concerns. The TCI funds were then transferred to the Willow Street station to be used, with Local Match, to acquire the trailer park and to prepare the site for 500 additional transit parking spaces. Demand for additional transit parking is strong, as evidenced by the use of City streets in the station area and the full utilization of existing MTA-owned parking at this station.

In March, 1994 escrow was closed on the LBRA's purchase of a 4.19 acre trailer park adjacent to the station area, as required by the MOU. Marketable fee title to this property will be held by LBRA on behalf of the MTA, thereby assuring the construction of over 500 additional park & ride spaces at grade if commercial development on this site and adjoining property owned by the City does not occur. An MTA-controlled surface parking lot had previously received a statutory exemption from the requirements of the California Environmental Quality Act on September 7, 1993.

In April, 1994 the LBRA received eleven (11) responses to its Request for Developer Qualifications (RFQ). In November, 1994 the MTA Board concurred with the action taken by the LBRA on November 14, 1994, awarding an Exclusive Right to Negotiate to ASPI. These determinations were previously reported to and reviewed by the Real Estate and Joint Development Committee, whose members were provided copies of the RFQ, the RFP and the LBRA staff recommendation prior to MTA staff presentations on these matters.

A portion of the trailer park parcel and property owned or controlled by LBRA were assembled to comprise a 10.23 acre site for the commercial center. The DDA and an unsubordinated Ground Lease have been negotiated between ASPI and LBRA (acting as Project Manager per the MOU). ASPI will finance, construct and operate a 121,000 square feet commercial center including a major grocery store, a major drug store and related retail and service facilities.

In June, 1995 the MTA Board approved the terms and conditions of the JDA and the DDA, and authorized the CEO to execute the JDA when documentation of the transaction is completed. Staff was instructed to obtain Board approval of the final Declaration at a subsequent meeting. The relationship among the parcels which are subject to the Declaration is illustrated on the Project Site Map (Attachment I). Notwithstanding the assemblage of properties, the DDA provides that fee ownership of the trailer park parcel reverts to the MTA upon either the termination of the Ground Lease or its expiration.

Business Terms

The initial term of the Ground Lease is 35 years. ASPI may exercise consecutive 5-year options which, in the aggregate, will amount to an additional 50 years. MTA and LBRA fee title to their respective properties will never be subordinated to any loan or other ASPI obligation.

ASPI will pay an annual Base Rent for the 445,448 square foot Shopping Center Parcel (see Attachment I) of \$601,355 (i.e., \$13.50 per square foot of land). The Base Rent will increase 10% every ten years, with a re-appraisal of the Shopping Center Parcel in the 25th year of the Ground Lease. The Base Rent in the 26th year will reflect the re-appraisal value or the Base Rent in effect, whichever is greater.

MTA will receive a first priority annual return equal to \$450,000 throughout the entire term of the Ground Lease. LBRA will receive a second priority return equal to \$207,000 throughout the entire term of the Ground Lease. MTA will receive 65% and LBRA will receive 35% of annual Base Rent

remaining after the payment of the first and second priority amounts, including a "recapture" amount payable to LBRA (without interest) to cover the shortfall in its second priority return during years 1-10 when LBRA will receive only \$151,355 per year. MTA will receive an estimated \$21.8 million in Ground Rent over the initial 35-year term of the Ground Lease.

ASPI will design and construct the additional transit parking facilities in accordance with specifications prepared by an MTA staff Task Force. ASPI will be repaid for this work by receiving a credit against the annual Base rent payable to MTA. It will reflect the total development cost of the additional transit parking and related improvements amortized at 7% for 30 years. Given current total development cost estimates, this rent credit will range between \$242,000 - \$322,000, depending upon the structural and functional characteristics of these facilities as defined by the MTA's specifications. Thus net Ground Rent receipts by MTA during the initial 35-year term of the Ground lease will range between \$12.1 million - \$14.5 million.

The Declaration

The purpose of the Declaration is to establish a general plan for the improvement, development, use, maintenance and protection of the various parcels which are being assembled to effectuate the purposes of the DDA and the JDA. Each of the restrictions upon individual parcels is a recorded covenant of its owner for the benefit of the other parcels within the Declaration property, and therefore remains on the title to that parcel regardless of any change in ownership. The rights and remedies available to each party in the event that any owner of property fails to timely perform its obligations under the Declaration are set forth within the document, and are available in addition to those provided by law.

During the predevelopment period MTA, LBRA and ASPI will prepare the legal description of various easements and restrictions which permit access, internal pedestrian and vehicular circulation including Common Area, and departure in an uninterrupted manner, thereby ensuring the efficient operation of an integrated commercial/transit center at the Willow Street station.

ASPI has been concerned about the visibility of the retail center from the corner of Long Beach Boulevard and Willow Street since their development site does not include the corner, which is typical of most retail centers. Therefore, specific sight line, land use and development constraints upon the future private use of the MTA Adjacent Parcel have been negotiated which will enable ASPI to maximize its penetration of the retail trade area, especially during the center's initial operating period as the merchants establish their customer base.

These constraints are not applicable to structures and facilities which are required to support the operation of rail transit. In summary, these constraints upon the use of the MTA Adjacent Parcel include:

1. MTA will not cause the construction of any directly competitive facilities for up to five years after completion of the retail center.
2. From years 6 through 10, MTA would accept a building height limitation keyed to the height

of the restaurant or retail facility to be constructed by ASPI on the adjacent retail pad. This limitation will occur only within a 75-foot setback from the Willow Street property line. All other portions of the MTA Adjacent Parcel could then be developed by private interests in accordance with applicable Long Beach zoning and building codes.

3. After 10 years, the restricted setback area and height limitation will be eliminated.
4. MTA will not cause the construction of a competing grocery use and drug store use for the entire term of the Ground Lease provided that ASPI is not in default of its obligations under the DDA or the Ground Lease. Furthermore, MTA will not cause the construction of facilities which compete with each of the three major retail tenants (a total of three buildings) during the original term of each tenant sublease plus options, but in no event beyond 20 years from the commencement of the particular sublease. These non competition agreements are reciprocal.
5. During the predevelopment period, MTA and ASPI will negotiate a signage plan that supports the reciprocal interests of shopping center tenants, future MTA Adjacent Parcel tenants and the MTA's operational requirements for appropriate access to transit.

In conclusion, the Declaration contains a requirement for the negotiation of future agreements among the parties which provide criteria for the use of MTA-owned transit parking, both structured and at grade, by shopping center customers and employees. Such use, either for special events or shared parking, are subject to restrictions which assure the availability of this parking to transit patrons on an exclusive basis, when warranted by patronage volumes and traffic counts.

ATTACHMENT

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Pacific Ave.

ATTACHMENT I

PROJECT SITE MAP

Pine Avenue

27th Street

American Way

Long Beach Blvd.

Willow Street

