

REPORT TO THE GOVERNING BOARD

ON

STATUS OF EAST WEST BANK ACQUISITION LOAN FOR THE PURCHASE OF THE  
CLEANTECH MANUFACTURING CENTER SITE (FORMER CROWN COACH SITE)

MARCH 29, 2012

## **PURPOSE**

To update the CRA/LA Governing Board (“Board”) on the status of the \$15.4 million acquisition loan (No. 29182) (the “EWB Loan”) from East West Bank (“EWB”), the proceeds of which were used to purchase the approximately 20.6 acres of property located at the intersection of 15<sup>th</sup> Street and Washington Boulevard (the “Site”, Attachment A), the proposed site for the CleanTech Manufacturing Center (“CTMC”), and to identify, for further consideration, a range of potential EWB Loan repayment and property disposition options.

## **REPORT**

### **Acquisition of Brownfield Site**

The Community Redevelopment Agency of the City of Los Angeles (“Prior Agency”) purchased the Site from the State of California Department of General Services in 2008. Due to contamination at the Site, it was designated as a Brownfields Demonstration Site by the City in 1997. Under the portion of the California redevelopment law known as the “Polanco Act”, redevelopment agencies could acquire contaminated brownfield sites, clean them up under the supervision of the State of California Department of Toxic Substances Control (“DTSC”) and then, following the remediation, sell them to third party developers. If the remediation is completed in accordance with the applicable plan and the DTSC issues a certificate of completion, then the redevelopment agency and the subsequent third party developer are immune from state liability with respect to the environmental contamination covered by the remediation plan. At the time the Prior Agency purchased the Site, it also entered into a Project Environmental Oversight Agreement (“PEOA”) with DTSC, dated January 8, 2007, requiring the Prior Agency to oversee the environmental investigation and cleanup of the Site. State funding in the amount of \$2.5 million was made available for this purpose.

### **EWB Acquisition Loan**

In February 2008, Prior Agency exercised its Purchase Option to acquire the Site from the State for a purchase price of approximately \$11 million. On April 14, 2008, Prior Agency closed its purchase on the majority of the Site, and the closing on the remaining parcels followed in November 2008. The entire acquisition, including 3 years of accrued interest, was funded by the EWB Loan (a small portion of the closing costs were funded by Prior Agency’s Special Revenue and General Revenue). No Project Area Tax Increment was used in the acquisition of the Site.

To allow time for the environmental remediation before the Site could be marketed, sold and the loan repaid, the EWB Loan initially allowed the accrued loan interest to be added back to the loan principal of approximately \$11 million up to \$15.4 million (similar to a negative amortization loan). The EWB Loan had an initial term of 36 months at a variable rate indexed to the 1-month LIBOR plus 250 basis points (2.5%). The EWB Loan is secured by a first lien on the Site. Full repayment of the EWB Loan was originally due on May 1, 2011.

On September 3, 2010, staff issued the CTMC RFP No. NP-13518 to invite industrial users and development teams to submit their conceptual development proposals for the purchase or long-term ground lease and development of the Site as a Clean Tech Manufacturing Center. Seven

firms responded to the RFP and Genton Property Group ("Genton") was selected on a competitive basis as the top scoring respondent. Following the selection, Genton executed a Purchase and Sale Agreement ("PSA"). During the contractual due diligence period, Genton elected to terminate the PSA due to uncertainties over environmental concerns. Trammell Crow ("TC") was the second top scoring respondent to the original RFP and later the top respondent under the limited reopen of the RFP in June 2012. The former Prior Agency Board approved a PSA in November 2011 contingent on the outcome of the Supreme Court litigation regarding AB1X-26.

Meanwhile, the EWB Loan came due on May 1, 2011. Staff negotiated a 90-day loan extension with EWB, maturing on August 1, 2011. EWB agreed to extend primarily due to the contemplated transaction with Genton. The terms of the extension were a prepayment of loan interest for the period of the extension and 1% increase in the interest rate. Thereafter, a second extension of six months, maturing on February 1, 2012, was negotiated based on the contemplated transaction with TC. In January 2012, the note was extended a third time to May 1, 2012, due to the California Supreme Court decision which resulted in the dissolution of redevelopment agencies throughout the State.

The current EWB Loan outstanding principal balance with accrued interest is \$13,032,245.81 and the total interest cost for loan extensions from May 1, 2011 to May 1, 2012 was approximately \$600,000. EWB has informed Staff that in the event of any potential additional extensions of the maturity date, loan interest will need to be paid in advance for the entire anticipated extension period. The EWB loan principal balance and an additional 3-month interest payment are currently on the Board approved ROPS, #1487, subject to Oversight Board approval.

#### Environmental Remediation Status

The State remediation funds are held in an escrow holdback account for this purpose by Prior Agency. The escrow account balance is currently approximately \$2.3 million. The obligation under the PEOA to oversee the Site environmental cleanup activities until a No Further Action letter ("NFA") is issued by the DTSC for the Site is an enforceable obligation that CRA/LA is obligated to complete.

The Prior Agency undertook a long series of environmental investigations and conducted cleanup activities at the CTMC Site, resulting in a "closure" letter from DTSC for the shallow soil contamination (i.e. the upper 30 feet of soil). The remaining deep soil gases have been characterized and a long-term remediation plan that will allow development to proceed has been approved by DTSC. Guided by the PEOA, during the course of the recent PSA negotiations with Genton, staff negotiated an updated cleanup plan better suited for the then-proposed development concepts. According to this updated plan, the timeline for obtaining the NFA could be as long as four years and could cost up to \$4 million. Therefore the updated plan may require the CRA/LA to set aside an additional \$1.7 million in new funds over and above the currently available \$2.3 million State cleanup funds. DTSC approved this updated plan on June 9, 2011.

### Options for Addressing the Repayment of EWB Loan

Option 1) Proceed immediately with property sale to Trammell Crow (TC) by executing the already negotiated PSA

The East West Bank loan of \$13.1 million comes due again on May 1, 2012. Completing the proposed sale to TC at a sales price of \$15.4 million will generate sufficient funds to pay off the EWB loan and the remaining sale proceeds (approximately \$2.2 million net of closing costs) could be available to fund the entire \$1.7 million additional cleanup cost to obtain the NFA. The PSA with TC is subject to the approval of the Oversight Board. Staff believes there will not be sufficient time to complete the sale transaction by May 1, 2012; therefore staff has negotiated a 4th extension of the EWB loan for 3-months, maturing on August 1, 2012, with an interest cost of approximately \$125,000, to allow time for the closing to proceed.

Option 2) No immediate property disposition, pay off the EWB loan principal when due, complete Site cleanup and sell the property at a later date.

In the event that the CRA/LA elects not to proceed with the property sale to TC, the DLA will need to reserve funding to pay off the loan balance (approximately \$13.1 million) when due; and the DLA will also need to reserve an additional \$1.7 million in new funding to remediate the Site and obtain the NFA. Total out of pocket cost under this option are expected to be approximately \$14.8 million and the recovery of this cost is uncertain in terms of timing or dollar amount due to Site cleanup and future market conditions at the time of property sale. The Central Industrial Redevelopment Project Area had a balance of approximately \$5.6 million in unencumbered resources available to pay off the EWB loan. No other resources are available at this time.

Option 3) No immediate property disposition, negotiate to further extend the EWB loan until Site cleanup is completed and then sell the property.

To further extend the EWB loan, staff was informed that the likely terms would be an immediate two year prepayment of interest in the amount of approximately \$1.2 million, based on a current 30-day LIBOR plus 3.5% interest spread. The DLA would need to reserve an additional \$1.7 million in new funding to obtain the NFA; plus dispose of the property in time to use the proceeds to pay off the loan when due or reserve \$13.1 million in funding to pay off the loan at the expiration of the loan extension. The total cost under this option is approximately \$16 million and the recovery of this cost is uncertain in terms of timing or dollar amount due to Site cleanup and future market conditions at the time of property sale.

Option 4) Walk away – taking no immediate action to dispose of the property, no loan extension, no loan repayment.

This option results in a default under the EWB loan. This option ignores the provisions of Health & Safety Code Section 34169(f) providing that redevelopment agencies shall [t]ake all reasonable measures to avoid triggering an event of default under any enforceable obligation.” Moreover, the CRA/LA-DLA still remains responsible for the Site cleanup at a total cost of up to approximately \$4 million. Therefore, the DLA will still need to reserve an additional \$1.7 million in new funding should the existing \$2.3 million State funding be exhausted before the NFA is

obtained. The DLA may be the subject of a lawsuit for breach and the property would be subject to foreclosure. In addition, the CRA/LA would be liable to any costs the lender incurs in enforcing the Note.

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Chief Executive Officer

By:

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Chief Operating Officer

**ATTACHMENT**

Attachment A: CTMC (Crown Coach) Site Map

**Central Industrial** Redevelopment Project CRA/LA

-  Central Industrial Redevelopment Project
-  Crown Coach Site

Attachment A

