

Hillmer, J H

From: Hillmer, J H
Sent: Monday, April 08, 2013 4:12 PM
To: 'jguill1043@aol.com'; 'AlanDones@aol.com'
Cc: Hunter, Gregory
Subject: Sears LDDA Assignment and Assumption Agreement

Gentlemen:

I want to give you an update on the schedule for the Council item referenced above. We will place this item on the Agenda of the April 23rd, 2013 meeting of the Community and Economic Development (CED) Committee this coming Thursday at the Rules Committee, which meets at 10:45 am. I do not anticipate any issues with scheduling the item and I will let you know on Thursday whether it is a "go"!

Once the report has been presented to the CED Committee and approved for forwarding to the City Council, it will be scheduled for the first May meeting of the City Council, which is on May 7th. The assignment should be approved at this meeting and it would be helpful to have representatives of Sears (John) and SUDA (Alan) present at both meetings (CED and City Council) in case that there are questions.

~~Once we have the legislative approval to assign the LDDA to the Telegraph Ave/Thomas Berkley Way parcel, we are in a~~
position to sign any agreements effectuating the transfer. I recommend that the Sears' attorney draft an Assignment and Assumption Agreement for our review and approval prior to the May 7th date. This is important because it will allow us to execute the agreement soon after the 7th without spending any more time on sending and reviewing drafts of the document. It will also make the job easier for Dianne Millner, our City Attorney assigned to the project.

Please let me know your thoughts on this approach and whether you have any questions/comments on the schedule.

Thank you!

Jens Hillmer
Urban Economic Coordinator
Office of Neighborhood Investment
City of Oakland
250 Frank H. Ogawa Plaza, Ste. 5313
Oakland, CA 94612
Tel.: 510-238-3317
Jhillmer@oaklandnet.com

Hillmer, J H

From: Hillmer, J H
Sent: Thursday, January 03, 2013 2:46 PM
To: 'jguill1043@aol.com'
Cc: Hunter, Gregory; Lane, Patrick
Subject: Sears - Request for meeting

Hi John:

Happy New Year! I hope that you had a relaxing holiday. I am following up on a message you left with Gregory over the holidays regarding the surface parking lot at the corner of Telegraph and Thomas L. Berkley Way. Specifically, it is my understanding that we need to determine how to assign the LDDA to the buyer of the Sears property. Gregory would like us to have a conference call, including Jim Terrell, to discuss the process and any other issues that you would like to go over. We can set up a conference call for tomorrow or next week. Please let us know about available times on your and Jim's schedule. Thank you!

Jens

Jens Hillmer
Urban Economic Coordinator
~~Office of Neighborhood Investment~~
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250 Frank H. Ogawa Plaza, Ste. 5313
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Tel.: 510-238-3317
jhillmer@oaklandnet.com

-----Original Message-----

From: jguill1043@aol.com [<mailto:jguill1043@aol.com>]
Sent: Tuesday, February 23, 2010 8:24 AM
To: Hillmer, J H
Subject: Re: Sears

Jens:

As you know, Sear's is keenly interested in the outcome of the study that you have commissioned with Denise and there are some concerns as outlined below.

Of the additional items that Denise has asked for, I am concerned about the following four. Structure of land transaction (package refers both to a lease and property purchase; Indication of Sears' willingness to pay proforma rents; and length of lease term; Rent roll and tenant profile for retail space; Description of any phasing plan (particularly the office component) and impact on financial feasibility; Financing plan and sources of debt and equity, and timing of capital in flows.

I have a good relationship with her. Historically, she has a lot of opinions of how and what Sears should be doing in Oakland but no facts.

We have not responded to this type of inquiry from her in the past.

Sear's position is we have an interest in the outcome of the study and at this stage we will not provide information that we perceive as proprietary. Subject to the study, a number of these matters still needs to be work out.

Alan will address these issues as appropriate.

I would like to know the scope of her work/study? Is it possible for you to share this with me?

Best: John G.

-----Original Message-----

From: Hillmer, J H <JHillmer@oaklandnet.com>

To: alandones <alandones@aol.com>

Cc: jguill1043@aol.com

Sent: Mon, Feb 22, 2010 11:59 am

Subject: Sears

Hi Alan:

I am going over the materials you submitted with Denise and I noticed that your submittal appears to cover only the first phase of the proposal, namely the redevelopment of the Sears Department store. Your narrative, however, also talks about the redevelopment of the Hahn parcel next door. Do you have information for that? We would like to take a look at that as it presents an alternative (or complement) to the first phase.

Also, Denise has asked for the following info that she will need to complete her analysis:

· Structure of development team, team members' roles, and project ownership including the entity responsible for construction management and leasing · Structure of land transaction (package refers both to a lease and property purchase) · Indication of Sears' willingness to pay pro forma rents, and length of lease term · Rent roll and tenant profile for retail space · Verification of assumptions re Hazmat conditions, offsites, and environmental clearance for partial building demolition · Description of any phasing plan (particularly the office component) and impact on financial feasibility · Financing plan and sources of debt and equity, and timing of capital inflows

Please let me know when you could make this info available.

Thank you!

Jens Hillmer

Urban Economic Coordinator

City of Oakland

Community and Economic Development Agency Redevelopment Division

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612

Tel.: (510) 238-3317

Fax: (510) 238-3691

E-mail Address: jhillmer@oaklandnet.com

Hillmer, J H

From: John Guillory [johniguillory@gmail.com]
Sent: Thursday, April 26, 2012 9:48 AM
To: Hillmer, J H
Subject: Re: CLARIFIACATIONS

Jens: When you get a chance can we talk. Thank you for the boiler plate elements of the document we need to create. I finds myself making changes as I deem appropriate and crossing out a lot that I don't think fit the current situation. I am concerned about the magnitude of these changes. John G.

On Thu, Apr 26, 2012 at 9:14 AM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

John:

This is Section 3 of the agreement that I used as the basis for the text I forwarded to you on Tuesday. When I copied the text into this email, it changed the numbering to 1. In essence, this section describes the purchase price and condition of title.

Jens

1. DISPOSITION OF THE PROPERTY

1.1. Consideration. The Property shall be sold to the Developer by the Agency at no cost to the Developer. The consideration for the sale shall be Developer's development and operation of the Project on the Property as provided for in this Agreement.

1.2. Condition of title. The Agency shall convey to the Developer title of the Property free and clear of all title defects, liens, encumbrances, deeds of trust, covenants, conditions, restrictions, assessments, easements, leases and taxes except those exceptions which the Developer has previously approved in writing, and:

1.2.1. All the conditions, covenants and restrictions set forth or referred to elsewhere in this Agreement, which Agreement shall be recorded with the Alameda County Recorder upon conveyance as an encumbrance against the Property senior to all other private liens and encumbrances except those preexisting liens and encumbrances referenced in this Section 3.2;

1.2.2. Any restrictions or security instruments required as a condition of any Agency or City financing of the Project;

1.2.3. The covenants, conditions and restrictions specified in the Redevelopment Plan;

1.2.4. Applicable building and zoning laws and regulations;

1.2.5. Any lien for taxes accrued subsequent to and applicable to the period following the recordation of the Grant Deed;

1.2.6. All easements, encumbrances and exceptions of record appearing on that certain Preliminary Report dated _____, 2005, prepared by _____ Title Company, a copy of which is attached to this Agreement as Exhibit E and incorporated into this Agreement by this reference;

1.2.7. Any other easements for public utilities or improvements, such as, but not limited to, tree wells, lamps, electrification, storm drains and gas mains necessary for successful development of the Project; and

1.2.8. Such additional conditions, covenants, restrictions or easements as may be agreed upon by the Developer and the Agency

Title shall be in such condition at the time of conveyance as shall enable the Developer to obtain an ALTA owner's policy of title insurance, if the Developer so desires, and enable any lenders for the Project to obtain an ALTA loan policy of title insurance, if any such lender so desires, subject only to the exceptions set forth in the subsections above.

1.3. Physical condition of the Property. Other than the removal of above-ground improvements installed on the Property to accommodate the Oakland School for the Arts under the Arts Lease, as described in Section 2.1.7, for which Agency shall be fully liable, the Agency is not in any way responsible for the condition of the Property or any structures on the Property, or for removing, demolishing, or relocating any structures, debris, rubble, demolition material, or subsurface construction on the Property, including, without limitation, structures associated with previous City uses of the Property or any underground utility facilities or improvements. The Agency expresses no warranty, express or implied, or other representation to the Developer other than those expressed within this Agreement as to the fitness or condition of the Property or any structures on the Property. The Property and all structures on the Property shall be conveyed in an "as is" physical condition. After the Agency's conveyance, it shall be the Developer's sole responsibility and obligation to: (1) take such action as may

be necessary to place the Property in all respects in a physical condition entirely suitable for the development of the Project (including without limitation undertaking any remediation work with respect to Hazardous Materials); (2) take such action to remove or demolish or otherwise accommodate any structures or improvements on the Property (both above ground and underground); and (3) take such action to remove, demolish relocate or otherwise accommodate any utility facilities (both above ground and underground), including, without limitation, any telephone cables, as required by the appropriate governmental or public utility entity as a condition for vacating.

1.4. Time of disposition; contingencies; escrow. Within thirty calendar days of the date the Developer has received the Agency's approval of all Developer Submissions, submitted proof of insurance satisfactory to the Agency, and satisfied any other items necessary to commence Project development, and the date that all other preconveyance conditions set forth in this Agreement have been satisfied, the Agency shall sell and the Developer shall purchase the Property. In addition to the above preconveyance conditions and other conditions set forth elsewhere in this Agreement, the Agency's obligation to sell the Property is contingent on the following conditions precedent: (1) the Agency is reasonably satisfied that the Project can commence construction within thirty days, (2) all construction and operational financing for the Project pursuant to the Financial Plan has closed or is prepared to close and the Developer has taken all steps to ensure to the Agency's reasonable satisfaction that all Developer equity is available to the Project as required by the Financial Plan, (3) the Developer's representations and warranties contained herein or otherwise made to the Agency are true and correct as of the closing except as otherwise disclosed in writing, and (4) the Developer is not otherwise in default under this Agreement. The sale and purchase shall be accomplished through an escrow established with Chicago Title Insurance Company (the "Escrow"). The parties shall provide the Escrow holder with instructions consistent with this Agreement. The Agency through the Agency Administrator or her designee reserves the right in its sole discretion to waive or relax any of the above preconveyance conditions.

1.5. Conveyance. At close of Escrow, the Agency shall convey the Property to the Developer by a grant deed in substantially the form set forth in Exhibit F attached hereto (the "Grant Deed"). Possession of the Property shall be delivered to the Developer concurrently with the conveyance of title. The Developer shall accept title on the date of conveyance.

1.6. Reversionary Grant Deed. As a further condition precedent to the close of Escrow, the Developer shall deposit into Escrow a fully executed grant deed reconveying fee title to the Property from the Developer to the Agency in the form attached hereto as Exhibit G (the "Reversionary Grant Deed"). The Escrow holder shall be instructed to hold the Reversionary Grant Deed in Escrow until the Agency has provided the Escrow holder with either (a) a written notice to record the Reversionary Grant Deed pursuant to Section 8 following a default by the Developer prior to completion of construction of the Project and the Agency's election to exercise any of its optional rights of repurchase, or (b) a written notice to return the unrecorded Reversionary Grant Deed to the Developer following completion of construction of the Project and the Agency's issuance of a Certificate of Completion.

1.7. Closing costs. The Agency shall be responsible for paying the cost of all escrow, recording, and notary fees, title report costs, City and County real estate transfer tax, and other costs and expenses of Escrow. The Developer shall be solely responsible for the cost of obtaining its title insurance policy.

1.8. Public access easement. The Agency will be reserving an easement in perpetuity (the "Public Access Easement") over an approximately 20-foot wide portion of the parcel now owned by the Agency immediately adjacent to the entire western boundary of the Property (the "Public Access Easement Area"). The Public Access Easement shall provide for pedestrian use of the Public Access Easement Area by members of the general public. The Public Access Easement shall not permit vehicular use of the Public Access Easement Area, nor permit the construction of any structures or other improvements on the Public Access Easement Area other than those improvements (such as lighting, landscaping, surface improvements, and street furniture) that are accessory to the use of the Public Access Easement Area for pedestrian purposes. The Agency, or its successor-in-interest to the fee interest in the parcel incorporating the Public Access Easement Area, shall be responsible for maintaining the Public Access Easement Area.

As part of the Project, the Developer shall construct and install surfacing improvements to an approximately five-foot to ten-foot wide portion of the Public Access Easement Area immediately adjacent to the Property, provided that the Developer has obtained sufficient subsidized funding to pay for such improvements. The plans and specifications for such improvements shall be submitted to the Agency for its review and approval.

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Thursday, April 26, 2012 9:07 AM
To: Hillmer, J H
Subject: CLARIFIACATIONS

Jens: Looking at the this section "

1.1.1. The City fails to sell the Property to the Developer in the time period and manner set forth in **Section 3**, provided that the conditions precedent to such sale which are the responsibility of the Developer have been met; or

What does Section 3 say?

Hillmer, J H

From: jguill1043@aol.com
Sent: Tuesday, April 24, 2012 10:31 AM
To: Hillmer, J H
Subject: Re: Language on Transfer Restrictions and City's reversionary rights

Jens: Thank you. When you have a chance lets discuss. I am not sure this language gets us where we need to be. In simple terms the City owes Sear's \$1.6 million dollars. In fairness to you at one stage it was represented to me that the City does not have the 1.6 million. This may or may not be true. Sear's is willing to take the clear title to the site in exchange for the \$1.6 million, with no reversionary interest. The City wants a reversionary interest and other constraints, this is a difficult element. Let's talk about what's possible. Best jg

-----Original Message-----

From: Hillmer, J H <JHillmer@oaklandnet.com>
To: jguill1043 <jguill1043@aol.com>
Cc: Hunter, Gregory <GHunter@oaklandnet.com>; Lane, Patrick <PSLane@oaklandnet.com>
Sent: Tue, Apr 24, 2012 9:47 am
Subject: Language on Transfer Restrictions and City's reversionary rights

Hi John:

As a follow-up to our meeting yesterday, I have attached sample language from other DDAs that covers the City's option to repurchase the property from you (or a successor in interest) in the event of a default. Usually, as a condition precedent to the close of Escrow for the transfer of the site, Sears would deposit into Escrow a fully executed grant deed reconveying fee title to the property from Sears to the City in a form that we can provide (it is very simple). The Escrow holder would be instructed to hold the Reversionary Grant Deed in Escrow until the City has provided the Escrow holder with either (a) a written notice to record the Reversionary Grant Deed following a default by the Developer prior to completion of construction of the Project and the Agency's election to exercise its optional rights of repurchase, or (b) a written notice to return the unrecorded Reversionary Grant Deed to Sears following completion of construction of the Project and the City's issuance of a Certificate of Completion.

Please review the attached Termination and Remedies Section for details on what constitutes a default and related remedies.

With regard to the issue of Transfer Restrictions, I would like to point your attention of Section 11 of the LDDA between Sears and the Agency "RESTRICTIONS ON TRANSFERS OF THE SITE AND/OR DEVELOPER'S RIGHTS". This section basically describes what would constitute a permitted and prohibited transfer from Sears to another entity. We should talk about how this fits in with your contemplated transfer of the properties to TB2.

Please don't hesitate to contact me if you would like to discuss these topics in more detail. Thank you!

Jens

Jens Hillmer
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Hillmer, J H

From: John Guillory [jguill1043@aol.com]
Sent: Friday, May 11, 2012 5:26 PM
To: Hillmer, J H
Subject: Re: 2000-2016 TELEGRAPH AVE AND 490 THOMAS L. BERKELEY WAY

I think we need something in writing from the City explaining all of this. From Sear's point of view this is really simple deed or dollars. Said another way either the unresolved matters of prior agreements by the City redevelopment successor will be honored or they won't. Honored agreements there is one course of action non recognition of prior agreements there is another course of action

John L. Guillory

On May 11, 2012, at 1:49 PM, "Hillmer, J H" <JHillmer@oaklandnet.com> wrote:

Yes, that would be the option. It is my understanding though that we won't be able to get anything before the Council until the "clawback" issue has been resolved.

From: John Guillory [mailto:jguill1043@aol.com]
Sent: Friday, May 11, 2012 4:46 PM
To: Hillmer, J H
Subject: Re: 2000-2016 TELEGRAPH AVE AND 490 THOMAS L. BERKELEY WAY

If that is what it takes Sears wants the deed to the site

John L. Guillory

On May 11, 2012, at 1:38 PM, "Hillmer, J H" <JHillmer@oaklandnet.com> wrote:

I would like to know which of the two options Sears wants to pursue as this will determine the type of agreement we will use. It sounds like you want to go for the DDA option that would include development of an Auto Center, which may include potential future modifications to the project by adding retail and parking.

Jens

From: John Guillory [mailto:jguill1043@aol.com]
Sent: Friday, May 11, 2012 4:33 PM
To: Hillmer, J H
Subject: Re: 2000-2016 TELEGRAPH AVE AND 490 THOMAS L. BERKELEY WAY

While I understand the dilemma what do you you from Sears ?

John L. Guillory

On May 11, 2012, at 1:10 PM, "Hillmer, J H" <JHillmer@oaklandnet.com> wrote:

Hi John:

Just to clarify! You would first get a DDA that has to be approved by the City Council, and then the Deed to the property. Regarding the floor and the opportunity for FMV, I understand your client's goal and I will communicate that to Gregory.

To make things more difficult, we are currently facing a situation in which the property was transferred to the City last January. Since we received the "claw-back" letter from the State on April 23rd, we have been instructed (for the time being) not to enter into any third-party agreements for any of the properties that were transferred by the Agency to the City until we have a better understanding of our obligations vis-à-vis the State in this regard. This could delay approval of a DDA for a while. We need to discuss this with Gregory.

Jens

From: John Guillory [<mailto:jguill1043@aol.com>]
Sent: Friday, May 11, 2012 4:01 PM
To: Hillmer, J H
Subject: Re: 2000-2016 TELEGRAPH AVE AND 490 THOMAS L. BERKELEY WAY

I think the preference is a deed, after that a DDA that is clean. If you have to have a buy back, your need is a floor of 1.6 million and Sear is coming to want the floor plus the opportunity of FMV

John L. Guillory

On May 11, 2012, at 12:21 PM, "Hillmer, J H"
<JHillmer@oaklandnet.com> wrote:

Hi John:

I am following up on our earlier conversations this week regarding which approach your client would like to take with regard to the development of the property located at 2000-2016 Telegraph Ave and 490 Thomas L. Berkeley Way. Sears' decision is important since it will determine what document we should prepare. Please advise! Have a good weekend!

Jens

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E-mail Address: jhillmer@oaklandnet.com

Hillmer, J H

From: jguill1043@aol.com
Sent: Wednesday, May 09, 2012 2:32 PM
To: Hillmer, J H
Subject: Re: 2000-2016 TELEGRAPH AVE AND 490 THOMAS L. BERKELEY WAY

Jens: Please clarify one thing under Option B, what happens to the 1.6 million the City owes Sears? JG

-----Original Message-----

From: Hillmer, J H <JHillmer@oaklandnet.com>
To: jguill1043 <jguill1043@aol.com>
Sent: Wed, May 9, 2012 12:17 pm
Subject: 2000-2016 TELEGRAPH AVE AND 490 THOMAS L. BERKELEY WAY

Hi John:

As a follow-up to our conversation this morning, here are the two options that we have, subject to input from our attorneys and approval by the City Council, in pursuing a development on the property located at 2000-2016 Telegraph Avenue and 490 Thomas L. Berkeley Way.

- A. If your client would like to continue to pursue the development of a Sears Auto Center on the property as contemplated in the LDDA between Sears Development Company and the former Redevelopment Agency of the City of Oakland, we would recommend to the City Council for approval an amended and restated LDDA (DDA) between the parties to 1) reflect the fact that the City now owns the property and can transfer it directly to Sears without going through a lease period first (hence we would likely call it a Disposition and Development Agreement (DDA) and no longer a Lease Disposition and Development Agreement (LDDA)), 2) effect the transfer of the property to your client within 30 days (or some other mutually agreed upon date) of the date of execution of the amended and restated DDA, with the understanding that your client would have to submit certain items (proof of financing, building permits, etc.) within agreed-upon timeframes prior to the start of project construction. It appears to me that the Forest City EIR would be sufficient to achieve CEQA compliance under this scenario and allow the City Council to approve the agreement, although my interpretation will have to be confirmed by the City Attorney's Office.
- B. In the event that your client no longer wishes to pursue the development of an automotive service facility and instead would like to develop a different project on the property, then we could recommend to the City Council that we enter into a new ENA for this new project. Upon Council approval and execution of a new ENA, your client would have to comply with all relevant CEQA requirements, after which we are in a position to recommend a new DDA between the City and Sears for transfer of the property to the City Council at some point in the future. Under this scenario, your client would not get possession of the property until CEQA compliance and Council approval of a new DDA for a new project has been achieved.

Please call me if you have any questions.

Jens Hillmer
Urban Economic Coordinator
City of Oakland
Office of Neighborhood Investment
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612

Tel.: (510) 238-3317
Fax: (510) 238-3691
E-mail Address: jhillmer@oaklandnet.com

Hillmer, J H

From: Hillmer, J H
Sent: Tuesday, April 24, 2012 10:41 AM
To: 'jguill1043@aol.com'
Subject: RE: Language on Transfer Restrictions and City's reversionary rights

John:

I get it! Let's discuss this tomorrow.

Jens

From: jguill1043@aol.com [mailto:jguill1043@aol.com]
Sent: Tuesday, April 24, 2012 10:31 AM
To: Hillmer, J H
Subject: Re: Language on Transfer Restrictions and City's reversionary rights

Jens: Thank you. When you have a chance lets discuss. I am not sure this language gets us where we need to be. In simple terms the City owes Sear's \$1.6 million dollars. In fairness to you at one stage it was represented to me that the City does not have the 1.6 million. This may or may not be true. Sear's is willing to take the clear title to the site in exchange for the \$1.6 million, with no reversionary interest. The City wants a reversionary interest and other constraints, this is a difficult element. Let's talk about what's possible. Best jg

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Jens

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E-mail Address: jhillmer@oaklandnet.com

Hillmer, J H

From: Hillmer, J H
Sent: Thursday, October 27, 2011 11:52 AM
To: 'John Guillory'
Subject: RE: Parking Availability

John:

We send a letter to Sears on June 21, 2011 (see attachment) to which you never replied. Instead, you told us that you and Alan were working on the Macy's deal, etc. You can request the \$1.6 million any time, and we will have to pay it. Until the issue with the Agency is resolved, we cannot amend the LDDA. We have to wait until the Supreme Court has made a decision on the court case regarding the continued existence of Redevelopment Agencies throughout California, including Oakland. We have been told that a decision will be made by early January. We cannot sell you the property for the sole purpose of Sears operating a parking lot on the site. Remember, we took this property by eminent domain because Sears insisted that it needed a site in proximity to the store for the relocation of the auto center.

Jens

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Thursday, October 27, 2011 11:46 AM
To: Hillmer, J H
Subject: Re: Parking Availability

Given the limitations and without "pointing figures" on compliance.

There are two parties out of compliance, where is 1.6 million from the City?

What would it take or the process would be to get control of that parking venue?

Best jg

On Thu, Oct 27, 2011 at 11:28 AM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

John:

The contract with the Parking vendor is, I believe, a month-to-month arrangement. Sears could only gain control of the site by complying with the now expired LDDA. At this point we cannot amend the LDDA because of the Agency's current "in limbo" situation. There is some parking available at the 20th and Telegraph property. A tenant could get monthly parking permits for spaces in that garage.

Jens

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Thursday, October 27, 2011 11:09 AM
To: Hillmer, J H
Subject: Parking Availability

Jens: I am showing the building tomorrow to a 100k sq,ft, user. I need to be able to speak to the parking for the site. I know you there is an in place parking vendor for the 20th street site. when does that contact end?
and What is the possibility of gaining control of the parking venue by Sear's?

Hillmer, J H

From: Hillmer, J H
Sent: Thursday, December 16, 2010 2:59 PM
To: 'John L. Guillory'
Subject: RE: Sear's Letter Response

John:

The next closed session that we can get to in time is on February 1, 2011. The 24th is a CEDC meeting with no closed session preceding it. By the way, despite our difference of opinion on this matter, I would like to wish you and your family very happy holidays.

Jens

From: John L. Guillory [<mailto:johnlguillory@gmail.com>]
Sent: Wednesday, December 15, 2010 5:53 PM
To: Hillmer, J H
Subject: Re: Sear's Letter Response

Jens: Thank you. My understanding is Jan. 24th. Please confirm. Thank you. JG

Sent from my iPhone

On Dec 15, 2010, at 3:00 PM, "Hillmer, J H" <JHillmer@oaklandnet.com> wrote:

Thank you! It is my understanding from Gregory that we will go to closed session with this item on February 1, 2010, to seek direction from the City Council.

Jens

From: John Guillory [<mailto:johnlguillory@gmail.com>]
Sent: Tuesday, December 14, 2010 3:53 PM
To: Hillmer, J H
Subject: Fwd: Sear's Letter Response

Jens: I realized that I sent this off without you getting a copy. So here is yours. jg

----- Forwarded message -----

From: John Guillory <johnlguillory@gmail.com>
Date: Tue, Dec 14, 2010 at 3:14 PM
Subject: Sear's Letter Response
To: ghunter@oaklandnet.com

Greg: Good afternoon. I am sending you Jim Terrel letter response to your letter of November 15, 2010. I agree wiht you that it is imortant that you get this communication in front of the city Council as quickly as practical. It is my understanding that the next schedule close session is December 21, is this correct? Given the holidays are upon us you plan to bring this forward for their consideration in early January. In either eevnt could you pleae confriem with me when you plan to get this in front of the City Council? Thank you. John Guillory

Hillmer, J H

From: Hillmer, J H
Sent: Wednesday, December 15, 2010 5:01 PM
To: 'John Guillory'
Subject: RE: Sear's Letter Response

Thank you! It is my understanding from Gregory that we will go to closed session with this item on February 1, 2010, to seek direction from the City Council.

Jens

From: John Guillory [<mailto:johnlguillory@gmail.com>]
Sent: Tuesday, December 14, 2010 3:53 PM
To: Hillmer, J H
Subject: Fwd: Sear's Letter Response

Jens: I realized that I sent this off without you getting a copy. So here is yours. jg

----- Forwarded message -----

From: John Guillory <johnlguillory@gmail.com>
Date: Tue, Dec 14, 2010 at 3:14 PM
Subject: Sear's Letter Response
To: ghunter@oaklandnet.com

Greg: Good afternoon. I am sending you Jim Terrel letter response to your letter of November 15, 2010. I agree with you that it is important that you get this communication in front of the city Council as quickly as practical. It is my understanding that the next scheduled close session is December 21, is this correct? Given the holidays are upon us you plan to bring this forward for their consideration in early January. In either event could you please confer with me when you plan to get this in front of the City Council? Thank you. John Guillory

Hillmer, J H

From: jguill1043@aol.com
Sent: Tuesday, November 23, 2010 12:07 PM
To: Hillmer, J H
Subject: Re: sharpscan@oaklandnet com_20101117_093208.pdf - Adobe Acrobat Professional

Jens: Have you read 16.4 and what constitutes default? You are a smart guy, you don't need to be a lawyer to understand what the words mean. And just to satisfy my curiosity what would be accomplish by this declaration? Do you guys really want to go down this road?

-----Original Message-----

From: Hillmer, J H <JHillmer@oaklandnet.com>
To: jguill1043@aol.com
Sent: Tue, Nov 23, 2010 11:48 am
Subject: RE: sharpscan@oaklandnet com_20101117_093208.pdf - Adobe Acrobat Professional

John: Without being a lawyer, my interpretation of Section 16.2 is that if Sears thinks that they are not in default of the LDDA terms and therefore presents a legal challenge to the Agency's notice of default, then Sears would not be deemed in default until a final judgment has been rendered by a court of law.
Jens

From: jguill1043@aol.com [mailto:jguill1043@aol.com]
Sent: Tuesday, November 23, 2010 7:52 AM
To: Hillmer, J H
Subject: Re: sharpscan@oaklandnet com_20101117_093208.pdf - Adobe Acrobat Professional

Jens: This is under review. What is the story about 16.2? jg

-----Original Message-----

From: Hillmer, J H <JHillmer@oaklandnet.com>
To: jguill1043@aol.com
Sent: Wed, Nov 17, 2010 8:24 am
Subject: sharpscan@oaklandnet com_20101117_093208.pdf - Adobe Acrobat Professional

Hi John:

Attached please find the letter to Jim Terrell that Gregory promised last week.

Please call me if you have any questions.

Jens

Hillmer, J H

From: John Guillory [johnlguillory@gmail.com]
Sent: Tuesday, October 12, 2010 1:26 PM
To: Hillmer, J H
Subject: Emails to Jens

Let me know that you got this. jg

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Monday, October 04, 2010 11:37 AM
To: Hillmer, J H

Subject: Sear's amendment language

Hi Jens:I took what you sent and come up with the following. jg

Draft

Answer: Sear's is seeking a two year extension for submitting to the City a development plan for the site.

2.3 Development Strategy

(a) Developer Documents for Agency Review. Within one hundred and eighty (180) calendar days after the effective date of the amendment, Developer shall submit to Agency the following documents and information for Agency's review, comment and approval (collectively, the "Development Strategy"):

(i) **Currently there is no pending or threatened litigation, arbitration, claims, administrative or other proceedings in which Developer is or may become a party that relates to the Site, that may have any impact on this LDDA, the Project, or the ability of Developer to meet any of its obligations under this LDDA (collectively, "Developer Litigation").** Should there be Developer Litigation, in the future Developer shall provide a statement describing such litigation and, within five (5) business days of Agency's request, provide copies of any public litigation documents or filings in connection with such litigation;

(ii) **A detailed description of the "Project" proposed for the site. : (ii) A detailed description of the "Project" proposed for the site. Project in the amended LDDA is to be defined as r new retail, residential uses and other lawful uses, with parking, landscaping, and accessory uses on the Site."** The Sears Galleria concept envisions a focused use of this site in conjunction with store site to be a magnet location for retail in the CBD. We anticipate reviewing the current CEQA report to determine it's applicability and update should that eb required. This description will include information that explains how this site is linked to the other store site. The extension amendment stands on it's own. We will never get to the EIR without the time amendment.

(iii) **A schedule outlining Sears' steps to select a development entity to under development of the Project.** Currently there are three developers, with development plans under consideration within 120 days of the extension date Sear's with provide to the City a detailed review of each f the development proposals.

(b) Within three hundred and sixty (360) calendar days after the effective date of the amendment, Developer shall submit to Agency the following documents and information for Agency's review, comment and approval:

(iv) A Project Concept

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(vi) **Concept Drawing.** "Concept Drawings", shall mean a site plan, illustrative materials, renderings, models or drawings needed to adequately present the Project.

Section 9, I would like to suggest quarterly status reports as opposed to reports every six months. Answer: Yes, this makes sense. .

Section 9.1(b) as follows:

(b) **Progress Reports.** From and following the Effective Date of this amendment and until Commencement of Construction occurs, Developer shall provide reports to Agency on a quarterly basis, in such detail as may be reasonably required by Agency, as to the actual progress of development of the Project. Each such report shall include, at a minimum, updates on Developer's performance of each obligation under this LDDA, and Developer's compliance with all timing requirements under this LDDA, including without limitation, updates on Developer's actions to:

- (i) define the Project Scope and that of any related development activities
 - (ii) Selection of entity undertaking the development of the Project
 - (iii) obtain financing for the Project;
-

- (iv) obtain Government Approvals.

It looks like this is going to be more involved than anticipated. Maybe you should talk to Jim about this in some more detail. Let's talk.

Hillmer, J H

From: John Guillory [johnlguillory@gmail.com]
Sent: Tuesday, October 05, 2010 8:53 AM
To: Hillmer, J H
Subject: Re: Sear's amendment language

Jens: That a good idea. When do you want to meet? As I look at the agreement, today, as oppose to months ago, I have other questions, ie what were we thinking? jg.

On Tue, Oct 5, 2010 at 8:39 AM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

John:

I think that we need to meet with Gregory on this. If we give you 3 years to complete construction, you will have to start predevelopment now. I think that you will be better served with a revision to the LDDA stating that you need two more years to start construction.

Jens

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Monday, October 04, 2010 5:44 PM

To: Hillmer, J H
Subject: Re: Sear's amendment language

Jens. At this stage I am confused. At a lot has change in the last 60 months. Recall we wanted 3 years not 2. Your observation about the starting points and ending points make sense. Where do you think the 2 years start or be tied too?

On Mon, Oct 4, 2010 at 5:07 PM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

John:

So you are seeking two years to start construction? If so, then you are asking to amend the LDDA by 3.5 years (2 yrs. Predev. + 1.5 year to build) because the LDDA currently calls for a 5-year term to **complete, not start** construction of a project on the property.

Jens

Hillmer, J H

From: Hillmer, J H
Sent: Wednesday, October 06, 2010 11:37 AM
To: 'John Guillory'
Subject: RE: Apt with Greg

John:

The earliest I can meet is Tuesday, October 12th at 10:00 am.

Jens

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Wednesday, October 06, 2010 11:32 AM
To: Hillmer, J H
Subject: Re: Apt with Greg

Jen: For what it is worth, I would prefer to meet sooner than later. I would like to go over the entire LDDA agreement and look at those area that are impacted by extension request and make sure that I understand the various implications. The intent here is to come up with an approach that is likely to work for both sides. jg

On Wed, Oct 6, 2010 at 11:03 AM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

Hi John:

I can meet on Wednesday at 9:00 am or 2:00 pm.

Jens

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Wednesday, October 06, 2010 9:52 AM
To: Hillmer, J H
Subject: Apt with Greg

Jens: The meeting with Greg is set for next Thursday. You suggested a pre-meeting between the two of us, this is a good idea. When do you want to meet? jg

Hillmer, J H

From: Hillmer, J H
Sent: Tuesday, October 05, 2010 8:54 AM
To: 'John Guillory'
Subject: RE: Sear's amendment language

John:

I will ask Delores Serapio to set up a meeting between Gregory, you and me. Maybe we can meet a half hour before that to talk things over.

Jens

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Tuesday, October 05, 2010 8:53 AM
To: Hillmer, J H
Subject: Re: Sear's amendment language

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Jens

From: John Guillory [mailto:johnlguillory@gmail.com]

Sent: Monday, October 04, 2010 5:05 PM

To: Hillmer, J H

Subject: Re: Sear's amendment language

Jens: We are seeking two years. You pointed out the nuance of the the time elements. My efforts are just to comply with the two year period. jg

On Mon, Oct 4, 2010 at 4:35 PM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

Hi John:

Thank you for the amendment language. I need to review this in more detail, but one issue that will be problematic for Gregory is your request for a two-year extension for a development plan for the site. This would mean that construction could not start for at least 6 – 12 months after that with a completion date out another 18 months for a total of 4+ years. My sense is that this will be a hard sell to the City Council, which was led to believe that Sears would be done with construction on the project this month. I suggest that you think about one year for the submittal of a new plan with construction starting no later than one year after that. This would translate into a 4-year delay, which is going to be a challenge for the City Council.

Let me know your thoughts on this.

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Answer: Sear's is seeking a two year extension for submitting to the City a development plan for the site.

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It looks like this is going to be more involved than anticipated. Maybe you should talk to Jim about this in some more detail. Let's talk.

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It looks like this is going to be more involved than anticipated. Maybe you should talk to Jim about this in some more detail. Let's talk.

Hillmer, J H

From: John Guillory [jguill1043@aol.com]
Sent: Thursday, July 22, 2010 3:43 PM
To: Hillmer, J H
Subject: Re: Sears

Sure that works. So you are not working tomorrow?

Sent from my iPhone

On Jul 22, 2010, at 3:15 PM, "Hillmer, J H" <JHillmer@oaklandnet.com> wrote:

John:

How about Monday @ 11 am?

Jens

From: jguill1043@aol.com [mailto:jguill1043@aol.com]
Sent: Thursday, July 22, 2010 2:34 PM
To: Hillmer, J H
Subject: Re: Sears

Jens: Jim has been waylaid by other matters. What he has in front of him is the proposed extension period and the language modification together with a project concept that proved to be cost probative. I think the time line that outlined makes sense. When is a good time to speak to you? jg

-----Original Message-----

From: Hillmer, J H <JHillmer@oaklandnet.com>
To: jguill1043@aol.com
Sent: Tue, Jul 20, 2010 9:48 am
Subject: Sears

Hi John:

I hope that you are doing well. I am writing to inquire about the status of Sears' response to our letter regarding the LDDA extension. I assume that you still want to pursue the extension and that we need to get it done by the end of October. Let's talk about project status when you have a moment. Thank you!

Jens

Jens Hillmer
Urban Economic Coordinator
City of Oakland
Community and Economic Development Agency
Redevelopment Division
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612

Tel.: (510) 238-3317
Fax: (510) 238-3691
E-mail Address: jhillmer@oaklandnet.com

Hillmer, J H

From: John L. Guillory [johnlguillory@gmail.com]
Sent: Thursday, May 27, 2010 8:49 AM
To: Hillmer, J H
Subject: Re: Sear's Window Project

No. The concept that we want to explore is how this site combined with the store site becomes the sear galleria. By way of example we can show that a parking structure on the site doesn't work.

Sent from my iPhone

On May 27, 2010, at 8:21 AM, "Hillmer, J H" <JHillmer@oaklandnet.com> wrote:

Hi John:

I understand. However, we need to give the City Council an explanation for the delay. I think that your efforts to reposition the store is the reason for you not proceeding with the development of the Telegraph property, right?

Jens

From: John L. Guillory [mailto:johnlguillory@gmail.com]
Sent: Wednesday, May 26, 2010 5:20 PM
To: Hillmer, J H
Subject: Re: Sear's Window Project

Jens: that may work. Here is the problem I see for item 1. A lot of the current thinking for the store and the site is a function of the opa and the extension ltr doesn't cover that

Sent from my iPhone

On May 26, 2010, at 4:23 PM, "Hillmer, J H" <JHillmer@oaklandnet.com> wrote:

John:

I will rewrite the letter right now and submit it for Gregory's signature. Regarding Denise Conley's report, he has a copy for review. My sense is that he wants to talk about the report internally first. I will keep you posted.

Jens

From: John Guillory [mailto:johnlguillory@gmail.com]
Sent: Wednesday, May 26, 2010 3:39 PM
To: Hillmer, J H
Subject: Re: Sear's Window Project

Jens: I think the ball is in Gregory court. My request is for a new letter with this element removed and a new letter issued. Should you need me to rewrite the letter that works as a draft, I am willing to do that. I understand that he has a copy of the Conley report, it would be nice to have the opportunity to review this report. I have got a call into Gregory

On Wed, May 26, 2010 at 3:23 PM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

So what are the next steps on your part?

From: John Guillory [<mailto:johnlguillory@gmail.com>]
Sent: Wednesday, May 26, 2010 3:26 PM
To: Hillmer, J H
Subject: Re: Sear's Window Project

Jens: Yes I did. He indicated two things: 1. That the was willing to drop it altogether. He addimtted that this was his add and the like. And that he was frustrated about the nonaction on the Sear's "window issue" which was a surprise to me because the only time the window issue showed up as an issue was when it was put into the extenstion as a part of that matter and it doesn't belong there. The point I mad eto him is that while the City may have been frustrated with their approach to Sear's on the window issue the first time that I heard the request we move immediately to a solution. And it simply needs to be removed as a conditions. jg

On Wed, May 26, 2010 at 2:42 PM, Hillmer, J H <JHillmer@oaklandnet.com> wrote:

John:

Did you ever get response from Gregory on this issue? My sense is that you can simply address the issue by stating that you are working on a windows enhancement project with the Oakland School for the Arts, describe what it will look like in broad terms and that should do it.

Where are you with regard to the other items in the letter? At this point, we will not be able to get this to the City Council before the summer recess. However, this can be the first item in September. Please let me know if you have any questions, or if you would like to discuss any of these issues in more detail.

Thank you!

Jens

From: John Guillory [<mailto:johnlguillory@gmail.com>]
Sent: Monday, May 17, 2010 4:52 PM
To: Hillmer, J H
Cc: Hunter, Gregory

Subject: Sear's Window Project

Jens and Gregory: As a start, we were very surprised that the "window project" has become an element in the request for and extension. While it may we may very well be able to score some points as a corporate citizen it becomes challenging when it becomes a new elements of a real estate transactions that is not related. From Sear's perspective they were asked to look at this project by Council Person Nancy Nadel. Sear's is willing to participate as demonstrated below. I think it is totally inappropriate to include this item as an item of negotiations when Sear's is willing to participate as a good corporate citizen as outline below. Come on you guys make this go away as an item of negotiations, please?

John:

Yes, they are in the process of getting me a proposal that would combine

Sears merchandising and some of their artwork for showcase. Email chain

attached.

-Max

-----Original Message-----

From: jguill11043@aol.com [<mailto:jguill11043@aol.com>]

Sent: Monday, May 17, 2010 4:42 PM

To: Bulbin, Max

Subject: Sear's Oakland Window project

Max: Good afternoon. As a follow up, were you ever contacted by the

people from the City of Oakland who wanted to work with Sear's on the

window displays? John Guillory

Attached Message

From: Heidi Cregge <hcregge@oakarts.org>

To: Donn Harris <dkh_1@comcast.net>

Cc: Bulbin, Max <Max.Bulbin@searshc.com>; Nancy Nadel <NNadel@oaklandnet.com>
Subject: Re: Sears Window
Date: Mon, 10 May 2010 11:09:25 -0400

Ok! You'll hear from me again on this shortly.

Heidi Cregge

Chair, Digital Media

Visual Art Department

Oakland School for the Arts

cell: (415) 517-9508

<http://teachers.oakarts.org/~digitalmedia>

<http://teachers.oakarts.org/~traditionalmedia>

www.oakarts.org

Donn Harris <dkh_1@comcast.net> writes:

>Heidi:

>Let's move in this direction and get something back to Max by
>next week.

>

>Donn K. Harris

>Executive Director

>Artistic Director

>Oakland School for the Arts

>Oakland, Ca. 94612

>Ph. 510.873.8800

>Fax 510.873.8816

>

>----- Original Message -----

>From: "Max Bulbin" <Max.Bulbin@searshc.com>

>To: "Donn Harris" <dkh_1@comcast.net>, "Heidi Cregge"
><hcregge@oakarts.org>

>Cc: "Nancy Nadel" <NNadel@oaklandnet.com>

>Sent: Friday, May 7, 2010 1:45:21 PM GMT -08:00 US/Canada
Pacific

>Subject: RE: Sears Window

Donn,

>

>If you could get us a proposal for a window design using Sears
merchandise as well, then I think we could come to an agreement
that uses elements of both ideas so you could showcase both.

>

>

>

>Max Bulbin

>Real Estate Manager

>Acquisitions and Dispositions &

>Finance Analytics

>Sears Holdings Corporation

>3333 Beverly Road, BC-113A

>Hoffman Estates, IL 60179

>Phone: (847) 286-6794

>Fax: (847) 286-7976

>Email: Max.Bulbin@searshc.com

>

>

>-----Original Message-----

>From: Donn Harris [<mailto:dkh1@comcast.net>]

>Sent: Tuesday, May 04, 2010 6:00 PM

>To: Heidi Cregge

>Cc: Bulbin, Max; Nancy Nadel

>Subject: Re: Sears Window

>If we went with a window design, we would have to work with
staff at Sears

around merchandise, etc. Could be interesting. I wonder if there
isn't a way to use elements of both ideas.

>

>Donn K. Harris

>Executive Director

>Artistic Director

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