Legislation Details (With Text)

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Type:	SA-Contract			**Status:**	Approved
File created:	1/14/2013			**In control:**	As the Successor Agency to the Redevelopment Agency of the City of Long Beach
On agenda:	1/22/2013			**Final action:**	1/22/2013
Title:	Approve and authorize City Manager to execute an amendment to the Agreement Containing Covenants Affecting Real Property with Temple Creative Realty, LLC. (District 2)				
Sponsors:					
Indexes:	Agreements, Amendments				
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Date	Ver.	Action By	Action	Result
1/22/2013	1	As the Successor Agency to the Redevelopment Agency of the City of Long Beach	approve recommendation	Pass

Approve and authorize City Manager to execute an amendment to the Agreement Containing Covenants Affecting Real Property with Temple Creative Realty, LLC. (District 2)

The Promenade Master Plan improvements between Ocean Boulevard and Third Street have been constructed by the former Redevelopment Agency in three phases over the past five years. Improvements on each block include upgraded storm drains, landscaping and irrigation, new hardscape, pedestrian and area lighting, pneumatic bollards at the north and south entries, new traffic signals, gateway signage, public art, and site furnishings. The improvements also included the construction of the Promenade Square public park on First Street and The Promenade. The final phase of improvements, the north block between Third Street and Broadway and the Harvey Milk Promenade Plaza, was recently completed and is currently in the gO-day post-construction maintenance period.

As part of the Disposition and DevelopmentAgreements for the redevelopment of former Redevelopment Agency properties adjacent to or near The Promenade, the former Redevelopment Agency required each developer to enter into an Agreement Containing Covenants Affecting Real Property (Agreement) that obligated them as "Promenade Parcel Owners" to participate in the Promenade Maintenance District (Exhibit A). The Promenade Maintenance District was to be managed by the former Redevelopment Agency and would be responsible for the maintenance and repair of The Promenade between Ocean Boulevard and Third Street, excluding Promenade Square Park and Harvey Milk Promenade Park. The properties or projects affected by this maintenance covenant include: the 133 Promenade condominium project developed by Olson 737 - Long Beach 2 LLC: the Pacifica condominium project developed by Lennar Long Beach Promenade Partners, LLC; the Lyon Promenade residential apartment project developed by Lyon Promenade, LLC; the vacant site south of Schneider Jewelry, currently owned by the Successor Agency; and the American Hotel commercial building at 224 W. Broadway, currently being rehabilitated by Temple Creative Realty, LLC.

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The obligation to participate in the Promenade Maintenance District commences with the completion of the final phase of The Promenade and continues through December 31, 2100. Each Promenade Parcel Owner is required to contribute into the Promenade Maintenance District fund to pay for the maintenance and repair of The Promenade. It is anticipated that the collection of fees and funding of maintenance will commence on April 1, 2013. The Promenade Parcel Owners fronting on The Promenade (Olson 737 - Long Beach 2, LLC; Lennar Long Beach Promenade Partners, LLC; and Lyon Promenade, LLC) each are to be assessed at 25 percent of the Promenade expenses. For the first five years, or until the vacant site south of Schneider Jewelry is developed, whichever occurs first, the Successor Agency is required to contribute 25 percent of the Promenade expenses. Upon issuance of a certificate of occupancy for its project, the developer of the American Hotel, Temple Creative Realty, LLC, also will be required to contribute, but at 50 percent of the assessment for projects fronting on The Promenade. At that time, the pro rata share for all Promenade Parcel Owners shall be recalculated. After five years, the Successor Agency will no longer contribute, and the pro rata share will be recalculated based upon the floor area of each of the remaining Promenade Parcel Owners' property. The former Redevelopment Agency would have been responsible for contracting with an appropriate entity to maintain the Promenade improvements.

The Promenade Maintenance District specifically excludes items that are being performed by the Downtown Long Beach Associates as part of the Property Based Improvement District, which was recently expanded to include residential properties. The DLBA will provide for trash removal from the hardscape areas, empty trash receptacles on a daily basis, and power-wash the hardscape weekly. The Promenade improvements require higher levels of service that are not currently provided by the City, such as weekly landscape maintenance, and repair and replacement of fixtures and equipment as needed.

As part of the dissolution of the former Redevelopment Agency, it is recommended that the obligation of the former Redevelopment Agency to maintain the Fund and contract for services be transferred to the City of Long Beach. This would also require amendment of the Agreement Containing Covenants for each affected property. The Successor Agency would pay its assessment as a Promenade Parcel Owner until such time as the Successor Agency's parcel on the north block of The Promenade is developed, or five years, whichever comes first. The responsibility of collecting funds and contracting for services to repair and maintain The Promenade would be transferred to the City.

This matter was reviewed by Deputy City Attorney Richard Anthony on December 27,2012 and by Budget Management Officer Victoria Bellon January 8, 2013.

Successor Agency action is requested on January 22, 2013, in order to allow for the seamless transition of the maintenance from the construction contractor to the City following Oversight Board and State Department of Finance approval.

This action is budgeted in the General Fund (GP 100) in the Department of Development Services. Costs for maintenance, estimated to be $38,400 annually, will be recouped from assessments collected from each Promenade Parcel Owner, including a 10 percent surcharge to offset the City's expenses in discharging its obligations. The proposed action will not affect local job creation.

The payment of the former Redevelopment Agency's assessment is an approved Enforceable Obligation and has been listed on Recognized Obligation Payment Schedules, all approved by the

State Department of Finance. The assessment is budgeted in the Successor Agency Fund (SA 270) in the Department of Development Services.

Approve recommendation.

APPROVED:

PATRICK H. WEST
CITY MANAGER