

OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY

AGENDA

THURSDAY, FEBRUARY 23, 2017 AT 10:00 AM

COMMUNITY CONFERENCE ROOMS #1 & #2
CITY HALL, 303 EAST "B" STREET, ONTARIO, CA, 91764

Call to order:

Roll Call

Pledge of Allegiance

Public Comment

1. Approval of Minutes for a Regular Meeting of January 26, 2017
2. A Resolution approving a Partial Assignment and Assumption of a 2007 Owner Participation Agreement (Ontario Airport Towers 2007 OPA)

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (Ontario Airport Towers Phase I)

A Resolution approving a Partial Assignment and Assumption of a 2007 Owner Participation Agreement (Ontario Airport Towers 2007 OPA)

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (Ontario Airport Towers PHASES 2 AND 3)

A Resolution approving a Partial Assignment and Assumption of a 2007 Owner Participation Agreement (Ontario Airport Towers 2007 OPA)

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT

AGENCY APPROVING A PARTIAL ASSIGNMENT AND
ASSUMPTION OF 2007 OWNER PARTICIPATION AGREEMENT
FOR PARCELS 6, 7, 8 AND 9 (Ontario Airport Towers Vacant
Land)

Staff Comments

Oversight Board Member Comments

Adjournment

**REGULAR MEETING OF THE
OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE ONTARIO REDEVELOPMENT AGENCY**

MINUTES

**THURSDAY, January 26, 2017
(Not Official Until Approved)**

A regular meeting of the Oversight Board of the Successor Agency to the Ontario Redevelopment Agency was held on Thursday, January 26, 2017, in Community Conference Rooms 1 and 2 at the Ontario City Hall, 303 East B Street, Ontario, California.

Notice of said meeting was duly given in the time and manner prescribed by law.

CALL TO ORDER

Chairman Brent Schultz called the Oversight Board Meeting to order at 10:00 a.m., and called roll.

PRESENT: Board Members: Alex Espinoza, Jamie Richardson, Anita Undercoffer, Rick Wiersma, Vice Chair Mary Jane Olhasso, and Chairman Brent Schultz.

ABSENT: Board Members: Paul Hofer (Christina Valencia in his place)

Also present were Economic Development Director John Andrews, Legal Counsel to the Successor Agency Elizabeth Hull (Via Telephone), Principal Project Manager Charity Hernandez, and Deputy City Clerk Marilyn Bonus.

The Pledge of Allegiance was led by Board Member Espinoza.

There were no public comments.

1. Approval of Minutes

Approval of Minutes for the Regular Meetings of May 26, 2016, June 23, 2016, July 28, 2016, August 25, 2016, September 22, 2016, October 27, 2016, November 24, 2016, and December 22, 2016.

Chairman Schultz abstained from voting on the Meeting Minutes of May 26, 2016 as a reflection of his absence during the meeting.

MOTION: Moved by Board Member Espinoza, Seconded by Board Member Wiersma and carried by unanimous vote of those present to approve the minutes as presented with the exception of Chairman Schultz abstaining from the Meeting Minutes of May 26, 2016.

2. A Resolution approving Recognized Obligation Payment Schedule for the time period from July 1, 2017 through June 20, 2018

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE DISSOLVED ONTARIO REDEVELOPMENT AGENCY, APPROVING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE TIME PERIOD FROM JULY 1, 2017, THROUGH JUNE 20, 2018, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(I)

There were no public comments.

Vice Chairman Olhasso asked if the new Staples agreement is with the City of Ontario. Staff confirmed.

MOTION: Moved by Vice Chairman Olhasso, Seconded by Board Member Espinoza and carried by unanimous vote of those present to approve and adopt Resolution No. OOB-035 as presented.

3. A Resolution approving the Successor Agency's Administrative Budget

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY, APPROVING THE SUCCESSOR AGENCY'S ADMINISTRATIVE BUDGET PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(j)

Economic Development Director Andrews stated that the Administrative Budget is in companion to the Recognized Obligation Payment Schedule Resolution No. OOB-035.

Board Member Wiersma asked how the Administrative Budget compares to previous years.

Principal Project Manager Hernandez stated that the Administrative Budget proposed is the maximum allowed.

MOTION: Moved by Board Member Wiersma, Seconded by Board Member Undercoffer and carried by unanimous vote of those present to approve and adopt Resolution No. OOB-036 as presented.

Oversight Board Staff Comments

Economic Development Director Andrews invited the Board Members to the City's upcoming State of the City, and stated that the registration cost for those who would like to attend will be covered by the City.

Oversight Board Member Comments

Board Member Espinoza requested a status update regarding the expected sunset of the Oversight Board of the Successor Agency to the Ontario Redevelopment Agency.

Economic Development Director Andrews stated that he will provide an update regarding the conclusion of the Successor Agency at a future meeting.

Legal Counsel to the Successor Agency Hull stated she anticipates receiving lawsuit appeal hearing dates sometime in the summer of 2017.

Adjournment

Chairman Schultz adjourned the Regular Oversight Board meeting at 10:10 a.m.

Respectfully submitted:

OVERSIGHT BOARD SECRETARY

APPROVED:

BRENT SCHULTZ CHAIRMAN
ONTARIO OVERSIGHT BOARD

**OVERSIGHT BOARD
FOR THE SUCCESSOR AGENCY
TO THE ONTARIO REDEVELOPMENT AGENCY**

*STAFF REPORT
AGENDA ITEM 2*

Meeting Date: February 23, 2017

Subject: Approval of Resolutions approving Partial Assignment and Assumption of a 2007 Owner Participation Agreement (Ontario Airport Towers 2007 OPA).

Recommended Action:

That the Oversight Board of the Successor Agency to the dissolved Ontario Redevelopment Agency adopt Resolutions approving Partial Assignment and Assumption of a 2007 Owner Participation Agreement (Ontario Airport Towers 2007 OPA).

Background

Pursuant to Health and Safety Code Section 34172, the Ontario Redevelopment Agency (“Redevelopment Agency”) was dissolved as of February 1, 2012. The City of Ontario (“City”) elected to serve as the Successor Agency to the Ontario Redevelopment Agency (“Successor Agency”). The Oversight Board is responsible for approving the actions of the Successor Agency pursuant to Health and Safety Code Section 34179.

Prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC (“Prior Owner”) entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment, dated as of February 4, 2014, (collectively, the “OPA”) in which the Prior Owner agreed to develop and operate Private Works of Improvement (“PWI”) in three (3) different phases of development on that certain real property located along the south side of Interstate-10 Freeway between Archibald and Turner Avenues, consisting of approximately 21.46 acres (“Property”), for the completion of public improvements necessary for the development of the PWI, and to provide for the then Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the “Agency’s Yearly Tax Increment Payment” (“TIF”) as reimbursement for certain related costs.

In 2012, TNHYIF REIV India, LLC (“Owner”) acquired the Property from the Prior Owner and became the successor-in-interest to the OPA. Phase 1 development under the OPA was completed. Phases 2 and 3 have not yet been completed.

Owner desires to assign, convey and transfer all rights and interest of Owner, as the “Owner” under the OPA, solely to the extent such rights and interests relate to the TIF for Phase 1, to Lambert Brea LLC, a California limited liability company (“Lambert Brea”). Owner and Lambert Brea have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phase 1).

Owner additionally desires to assign convey and transfer all rights and interest of Owner, as the “Owner” under the OPA, solely to the extent such rights and interest relate to the TIF for Phases 2 and 3, to Stafford LLC, a California limited liability company (“Stafford”). Owner and Stafford have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phase 2).

Owner desires to assign, convey and transfer all rights and interests of Owner, as the “Owner” of the Property under the OPA and Development Agreement, solely to the extent such rights and interests relate to the Property, to DB Grand, LLC, a California limited liability company (“DB Grand”). Owner and DB Grand have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers Vacant Land) (Parcels 6, 7, 8, 9).

If the assignment agreements for the OPA are approved by the Oversight Board, these agreements will then be submitted the California Department of Finance for review and approval.

Due to the importance of the development of the site, staff recommends that the Oversight Board adopt resolutions assigning the OPA to Lambert Brea, LLC, and Stafford, LLC as it relates to the TIF, and DB Grand, LLC as it relates solely to the Property.

Fiscal Impact

There is no direct fiscal impact as a result of this Oversight Board action.

RESOLUTION NO. _____

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS) (PHASE 1)

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Ontario (“City”) elected to serve as the successor agency (“Successor Agency”) to the former Ontario Redevelopment Agency (“Redevelopment Agency”), following dissolution of the Redevelopment Agency; and

WHEREAS, the Oversight Board is the Successor Agency’s oversight board pursuant to Health and Safety Code section 34179(a); and

WHEREAS, prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC (“Prior Owner”) entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the “OPA”) in which the Prior Owner agreed to develop and operate Private Works of Improvement, as further defined in the OPA (“PWI”), in three (3) different phases of development on that certain real property located in the City of Ontario, California and consisting of approximately 21.462 acres, as further described in the OPA (“Property”), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the “Agency’s Yearly Tax Increment Payment” as reimbursement for certain related costs (“TIF”); and

WHEREAS, in 2012, TNHYIF REIV India, LLC (“Owner”) acquired the Property from the Prior Owner and became the successor-in interest to the OPA; and

WHEREAS, the Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048 but Owner has not yet completed Phases 2 and 3; and

WHEREAS, Owner desires to assign, convey and transfer all rights and interests of Owner, as the “Owner” of the Property under the OPA, solely to the extent such rights and interests relate to the TIF, to Lambert Brea LLC, a California limited liability company (“Lambert Brea”) and Owner and Lambert Brea have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phase 1) (“Assignment Agreement”); and

WHEREAS, Section 9.3 of the OPA requires the Successor Agency’s consent to the Assignment Agreement; and

WHEREAS, the Assignment Agreement has no effect on the rights and obligations of the Successor Agency under the OPA and is for the sole purpose of substituting Lambert Brea for the Owner under the OPA regarding the receipt of TIF; and

WHEREAS, on February 21, 2016, the Successor Agency determined that the Assignment Agreement is in the best interests of the Successor Agency, the community and the winding down of the Redevelopment Agency's businesses, and approved the Assignment Agreement; and

WHEREAS, the Oversight Board finds that the Assignment Agreement will reduce liabilities and increase net revenues to the taxing entities, and is in the best interests of the taxing entities, because it ensures the continued maintenance of the Property and resulting tax revenue and does not impact any of the rights or obligations of the Successor Agency.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. CEQA Compliance. Oversight Board staff has determined that the Oversight Board's approval of the Assignment Agreement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3), because it can be seen with certainty that there is no possibility that the Assignment Agreement may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of CEQA. The Secretary of the Oversight Board is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

Section 3. Approval of Agreement. The Oversight Board hereby approves the Assignment Agreement, in substantially the form attached to this Resolution as Exhibit "A."

Section 4. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the Oversight Board, execute any and all documents, and take any and all action necessary to carry out the purposes of this Resolution in compliance with applicable law.

Section 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6. Certification. The Secretary to the Oversight Board shall certify to the adoption of this Resolution.

Section 7. Effective Date. Pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

PASSED AND ADOPTED THIS 23rd day of February, 2017.

Chairperson

ATTEST:

Secretary

EXHIBIT A

PARTIAL ASSIGNMENT AND ASSUMPTION OF
2007 OWNER PARTICIPATION AGREEMENT
(ONTARIO AIRPORT TOWERS)
(Phase 1)

[Attached behind this cover page]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

TNHYIF REIV INDIA, LLC
c/o True North Management Group
10 Bank Street, 12th Floor
White Plains, NY 10606
Attention: Girard Tunney, Principal

(Space above this line for Recorder's use only)

PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS
UNDER 2007 OWNER PARTICIPATION AGREEMENT
(Ontario Airport Towers)
(Phase 1)

This PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (this "Assignment") dated as of _____, 2017, for reference purposes only, is made by and between TNHUYIF REIV INDIA, LLC, a Delaware limited liability company ("Assignor"), and LAMBERT BREA LLC, a California limited liability company, ("Assignee"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Owner Participation Agreement (as defined in Recital B).

RECITALS

A. Assignor was the owner of certain rights to real property located in the City of Ontario, County of San Bernardino, State of California, located at the northwest corner of Guasti Avenue and Turner Avenue, which real property is more particularly described in Exhibit B attached hereto and incorporated herein by reference (the "Development").

B. The Development is subject to the terms of that certain 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of September 4, 2007, by and between the Ontario Redevelopment Agency, a public body, corporate and politic, and Ontario Airport Center, LLC, a Delaware limited liability company ("OAC"), as amended by that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014, by and between the Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), and Assignor (collectively, the "Owner Participation Agreement"), which Owner Participation Agreement contains certain rights, duties and obligations relating to the development of the Development.

C. The Phase 1 PWI was completed and a Certificate of Completion – Ontario Airport Center (Phase 1), contemplated by the provisions of Section 4.10 of the Owner Participation Agreement was recorded in the Official Records of the County of San Bernardino (the "Official Records"), on April 17, 2009, as Document No. 2009-0163048.

D. Assignor is the successor-in-interest to OAC for purposes of the “Yearly Tax Increment Payments” (as such term is defined in the Owner Participation Agreement).

E. Concurrently with the recording of this Assignment in the Official Records, Assignee, or an affiliate of Assignee, is acquiring a portion of the Development from Assignor.

F. Assignor agreed to assign to Assignee certain of its rights and interests under the Owner Participation Agreement, as such rights and interests relate to the TIF.

G. The purpose of this Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights and interests of Assignor under the Owner Participation Agreement, as such rights, interests, duties and obligations relate to the TIF.

NOW, THEREFORE, with reference to the foregoing Recitals, and in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. As of the Effective Date (as defined in Section 3.7), Assignor hereby assigns, conveys and transfers to Assignee the rights and interests of Assignor, under the Owner Participation Agreement to the payment of Yearly Tax Increment Payments (as such term is defined in the Owner Participation Agreement) (the “TIF”) to the extent of TIF payments applicable to Phase 1 due for the fiscal tax year ending June 2017, and each year thereafter, and Assignee hereby accepts such assignment. Should Assignor receive TIF payments due and owing for such tax year after the Effective Date of this Assignment, Assignor shall promptly remit such amounts to Assignee.

2. Delegation and Assumption of Obligations. As of the Effective Date, Assignor hereby delegates to Assignee all of Assignor’s duties and obligations, as the “Owner,” under the Owner Participation Agreement solely to the extent such obligations relate to the TIF, all of which obligations are hereby assumed by Assignee (collectively, the “Obligations”). Assignee acknowledges that the payment of TIF is subject to all of the terms and provisions of this OPA, and limitation on payment therein, including, without limitation, the effect of actions or inactions of third parties, the value of the Development, and the extent of the development of the Development. Assignor makes no representations or warranties regarding the amounts or payments of the TIF.

3. Miscellaneous.

3.1 Interpretation; Governing Law. This Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Assignment shall be construed in accordance with and governed by the laws of the State of California.

3.2 Attorneys’ and Other Fees. Should any party institute any action or proceeding to enforce or interpret this Assignment or any provision hereof, for damages by reason of any alleged breach of this Assignment or of any provision hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to

receive from the other party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing party in connection with such action or proceeding. The term "attorneys' and other fees" shall mean and include attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefor. The term "action or proceeding" shall mean and include actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

3.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Assignment on behalf of such party is or are authorized to execute and deliver this Assignment and that this Assignment shall be binding upon such party.

3.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

3.5 Execution in Counterparts. This Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

3.6 Conflict. As between Assignor and Assignee, in the event of any conflict or inconsistency between the provisions of this Assignment and the provisions of the Owner Participation Agreement or any other documents, the provisions of this Assignment shall govern and prevail.

3.7 Effective Date. The "Effective Date" shall mean the date upon which Assignee, or an affiliate of Assignee, acquires fee title to the Property.

3.8 Recordation. The parties hereby authorize this Assignment to be recorded in the Official Records upon the Effective Date.

3.9 Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

(Signatures Follow on Next Page)

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first set forth above, to be made effective as of the Effective Date.

“ASSIGNOR”

TNHYIF REIV INDIA, LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

“ASSIGNEE”

LAMBERT BREA LLC, a
California limited liability company

By: _____

Name: _____

Its: _____

SUCCESSOR AGENCY CONSENT

The Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), as party to the Owner Participation Agreement, consents to the foregoing Assignment of Tax Increment Payments under 2007 Owner Participation Agreement ("Assignment") pursuant to the provisions of Section 9.3 of the Owner Participation Agreement. The Successor Agency acknowledges that to its best information and belief, no defaults exist under the Owner Participation Agreement and the Owner Participation Agreement remains in full force and effect.

Date: _____, 2017

"SUCCESSOR AGENCY"

THE SUCCESSOR AGENCY TO THE
ONTARIO DEVELOPMENT AGENCY,
a public body, corporate and politic

By:

Name: _____

Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

Legal Description of the Property

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCELS 6 TROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs: 0210-192-21-0-000 (Parcel 6), 0210-192-22-0-000 (Parcel 7), 0210-192-23-0-000 (Parcel 8) and 0210-192-24-0-000 (Parcel 9)

Exhibit B

Legal Description of the Development

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCELS 1 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0210-192-13-0-000 and 0210-192-16-0000 and 0210-192-17-0000 and 0210 192 18 0000 and 0210-192-19-0000 and 0210-192-20-0000 and 0210-192-21-0000 and 0210-192-22-0000 and 0210-192-23-0000 and 0210-192-24-0000 and 0210-192-14-0-000 and 0210-192-15-0-000

RESOLUTION NO. _____

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS) (PHASES 2 AND 3)

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Ontario (“City”) elected to serve as the successor agency (“Successor Agency”) to the former Ontario Redevelopment Agency (“Redevelopment Agency”), following dissolution of the Redevelopment Agency; and

WHEREAS, the Oversight Board is the Successor Agency’s oversight board pursuant to Health and Safety Code section 34179(a); and

WHEREAS, prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC (“Prior Owner”) entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the “OPA”) in which the Prior Owner agreed to develop and operate Private Works of Improvement, as further defined in the OPA (“PWI”), in three (3) different phases of development on that certain real property located in the City of Ontario, California and consisting of approximately 21.462 acres, as further described in the OPA (“Property”), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the “Agency’s Yearly Tax Increment Payment” as reimbursement for certain related costs (“TIF”); and

WHEREAS, in 2012, TNHYIF REIV India, LLC (“Owner”) acquired the Property from the Prior Owner and became the successor-in-interest to the OPA; and

WHEREAS, the Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048 but Owner has not yet completed Phases 2 and 3; and

WHEREAS, Owner desires to assign, convey and transfer all rights and interests of Owner, as the “Owner” of the Property under the OPA, solely to the extent such rights and interests relate to the TIF, to Stafford LLC, a California limited liability company (“Stafford”) and Owner and Stafford have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phases 2 and 3) (“Assignment Agreement”); and

WHEREAS, Section 9.3 of the OPA requires the Successor Agency’s consent to the Assignment Agreement; and

WHEREAS, the Assignment Agreement has no effect on the rights and obligations of the Successor Agency under the OPA and is for the sole purpose of substituting Stafford for the Owner under the OPA regarding the receipt of TIF; and

WHEREAS, on February 21, 2016, the Successor Agency determined that the Assignment Agreement is in the best interests of the Successor Agency, the community and the winding down of the Redevelopment Agency's businesses, and approved the Assignment Agreement; and

WHEREAS, the Oversight Board finds that the Assignment Agreement will reduce liabilities and increase net revenues to the taxing entities, and is in the best interests of the taxing entities, because it ensures the continued maintenance of the Property and resulting tax revenue and does not impact any of the rights or obligations of the Successor Agency.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. CEQA Compliance. Oversight Board staff has determined that the Oversight Board's approval of the Assignment Agreement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3), because it can be seen with certainty that there is no possibility that the Assignment Agreement may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of CEQA. The Secretary of the Oversight Board is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

Section 3. Approval of Agreement. The Oversight Board hereby approves the Assignment Agreement, in substantially the form attached to this Resolution as Exhibit "A."

Section 4. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the Oversight Board, execute any and all documents, and take any and all action necessary to carry out the purposes of this Resolution in compliance with applicable law.

Section 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6. Certification. The Secretary to the Oversight Board shall certify to the adoption of this Resolution.

Section 7. Effective Date. Pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

PASSED AND ADOPTED THIS 23rd day of February, 2017.

Chairperson

ATTEST:

Secretary

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss.
CITY OF ONTARIO)

I, _____, Secretary to the Oversight Board to the Successor Agency to the Ontario Redevelopment Agency, do hereby certify that the foregoing Resolution No. _____ was duly and regularly adopted by the Oversight Board to the Successor Agency to the Ontario Redevelopment Agency at a regular meeting thereof on the 23rd day of February, 2017 and that the same was passed and adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Secretary to the Board

EXHIBIT A

PARTIAL ASSIGNMENT AND ASSUMPTION OF
2007 OWNER PARTICIPATION AGREEMENT
(ONTARIO AIRPORT TOWERS)
(Phases 2 and 3)

[Attached behind this cover page]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

TNHYIF REIV INDIA, LLC
c/o True North Management Group
10 Bank Street, 12th Floor
White Plains, NY 10606
Attention: Girard Tunney, Principal

(Space above this line for Recorder's use only)

PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS
UNDER 2007 OWNER PARTICIPATION AGREEMENT
(Ontario Airport Towers)
(Phases 2 and 3)

This PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (this "Assignment") dated as of _____, 2017, for reference purposes only, is made by and between TNHUYIF REIV INDIA, LLC, a Delaware limited liability company ("Assignor"), and STAFFORD LLC, a California limited liability company, ("Assignee"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Owner Participation Agreement (as defined in Recital B).

RECITALS

A. Assignor was the owner of certain rights to real property located in the City of Ontario, County of San Bernardino, State of California, located at the northwest corner of Guasti Avenue and Turner Avenue, which real property is more particularly described in Exhibit B attached hereto and incorporated herein by reference (the "Development").

B. The Development is subject to the terms of that certain 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of September 4, 2007, by and between the Ontario Redevelopment Agency, a public body, corporate and politic, and Ontario Airport Center, LLC, a Delaware limited liability company ("OAC"), as amended by that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014, by and between the Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), and Assignor (collectively, the "Owner Participation Agreement"), which Owner Participation Agreement contains certain rights, duties and obligations relating to the development of the Development.

C. Phases 2 and 3 PWI were completed and a Certificate of Completion – Ontario Airport Center (Phases 2 and 3), contemplated by the provisions of Section 4.10 of the Owner Participation Agreement was recorded in the Official Records of the County of San Bernardino (the "Official Records"), on April 17, 2009, as Document No. 2009-0163048.

D. Assignor is the successor-in-interest to OAC for purposes of the “Yearly Tax Increment Payments” (as such term is defined in the Owner Participation Agreement).

E. Concurrently with the recording of this Assignment in the Official Records, Assignee, or an affiliate of Assignee, is acquiring a portion of the Development from Assignor.

F. Assignor agreed to assign to Assignee certain of its rights and interests under the Owner Participation Agreement, as such rights and interests relate to the TIF.

G. The purpose of this Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights and interests of Assignor under the Owner Participation Agreement, as such rights, interests, duties and obligations relate to the TIF.

NOW, THEREFORE, with reference to the foregoing Recitals, and in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. As of the Effective Date (as defined in Section 3.7), Assignor hereby assigns, conveys and transfers to Assignee the rights and interests of Assignor, under the Owner Participation Agreement to the payment of Yearly Tax Increment Payments (as such term is defined in the Owner Participation Agreement) (the “TIF”) to the extent of TIF payments applicable to Phases 2 and 3 due for the fiscal tax year ending June 2017, and each year thereafter, and Assignee hereby accepts such assignment. Should Assignor receive TIF payments due and owing for such tax year after the Effective Date of this Assignment, Assignor shall promptly remit such amounts to Assignee.

2. Delegation and Assumption of Obligations. As of the Effective Date, Assignor hereby delegates to Assignee all of Assignor’s duties and obligations, as the “Owner,” under the Owner Participation Agreement solely to the extent such obligations relate to the TIF, all of which obligations are hereby assumed by Assignee (collectively, the “Obligations”). Assignee acknowledges that the payment of TIF is subject to all of the terms and provisions of this OPA, and limitation on payment therein, including, without limitation, the effect of actions or inactions of third parties, the value of the Development, and the extent of the development of the Development. Assignor makes no representations or warranties regarding the amounts or payments of the TIF.

3. Miscellaneous.

3.1 Interpretation; Governing Law. This Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Assignment shall be construed in accordance with and governed by the laws of the State of California.

3.2 Attorneys’ and Other Fees. Should any party institute any action or proceeding to enforce or interpret this Assignment or any provision hereof, for damages by reason of any alleged breach of this Assignment or of any provision hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to

receive from the other party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing party in connection with such action or proceeding. The term "attorneys' and other fees" shall mean and include attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefor. The term "action or proceeding" shall mean and include actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

3.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Assignment on behalf of such party is or are authorized to execute and deliver this Assignment and that this Assignment shall be binding upon such party.

3.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

3.5 Execution in Counterparts. This Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

3.6 Conflict. As between Assignor and Assignee, in the event of any conflict or inconsistency between the provisions of this Assignment and the provisions of the Owner Participation Agreement or any other documents, the provisions of this Assignment shall govern and prevail.

3.7 Effective Date. The "Effective Date" shall mean the date upon which Assignee, or an affiliate of Assignee, acquires fee title to the Property.

3.8 Recordation. The parties hereby authorize this Assignment to be recorded in the Official Records upon the Effective Date.

3.9 Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

(Signatures Follow on Next Page)

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first set forth above, to be made effective as of the Effective Date.

“ASSIGNOR”

TNHYIF REIV INDIA, LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

“ASSIGNEE”

STAFFORD LLC, a
California limited liability company

By: _____

Name: _____

Its: _____

SUCCESSOR AGENCY CONSENT

The Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), as party to the Owner Participation Agreement, consents to the foregoing Assignment of Tax Increment Payments under 2007 Owner Participation Agreement ("Assignment") pursuant to the provisions of Section 9.3 of the Owner Participation Agreement. The Successor Agency acknowledges that to its best information and belief, no defaults exist under the Owner Participation Agreement and the Owner Participation Agreement remains in full force and effect.

Date: _____, 2017

"SUCCESSOR AGENCY"

THE SUCCESSOR AGENCY TO THE
ONTARIO DEVELOPMENT AGENCY,
a public body, corporate and politic

By:

Name: _____

Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

Legal Description of the Property

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCELS 6 TROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs: 0210-192-21-0-000 (Parcel 6), 0210-192-22-0-000 (Parcel 7), 0210-192-23-0-000 (Parcel 8) and 0210-192-24-0-000 (Parcel 9)

Exhibit B

Legal Description of the Development

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCELS 1 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0210-192-13-0-000 and 0210-192-16-0000 and 0210-192-17-0000 and 0210 192 18 0000 and 0210-192-19-0000 and 0210-192-20-0000 and 0210-192-21-0000 and 0210-192-22-0000 and 0210-192-23-0000 and 0210-192-24-0000 and 0210-192-14-0-000 and 0210-192-15-0-000

RESOLUTION NO. _____

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS VACANT LAND) FOR PARCELS 6, 7, 8 AND 9

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Ontario (“City”) elected to serve as the successor agency (“Successor Agency”) to the former Ontario Redevelopment Agency (“Redevelopment Agency”), following dissolution of the Redevelopment Agency; and

WHEREAS, the Oversight Board is the Successor Agency’s oversight board pursuant to Health and Safety Code section 34179(a); and

WHEREAS, prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC (“Prior Owner”) entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the “OPA”) in which the Prior Owner agreed to develop and operate Private Works of Improvement, as further defined in the OPA (“PWI”), in three (3) different phases of development on that certain real property located in the City of Ontario, California and consisting of approximately 21.462 acres, as further described in the OPA (“Property”), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the “Agency’s Yearly Tax Increment Payment” as reimbursement for certain related costs; and

WHEREAS, in 2012, TNHYIF REIV India, LLC (“Owner”) acquired the Property from the Prior Owner and became the successor-in-interest to the OPA; and

WHEREAS, the Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048 but Owner has not yet completed Phases 2 and 3; and

WHEREAS, Owner desires to assign, convey and transfer all rights and interests of Owner, as the “Owner” of the Property under the OPA, solely to the extent such rights and interests relate to the Property, to DB Grand, LLC, a California limited liability company (“DB Grand”) and Owner and DB Grand have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers Vacant Land) (Parcels 6, 7, 8, 9) (“Assignment Agreement”); and

WHEREAS, Section 9.3 of the OPA requires the Successor Agency’s consent to the Assignment Agreement; and

WHEREAS, the Assignment Agreement has no effect on the rights and obligations of the Successor Agency under the OPA and is for the sole purpose of substituting DB Grand for the Owner as the owner of the Property under the OPA; and

WHEREAS, on February 21, 2016, the Successor Agency determined that the Assignment Agreement is in the best interests of the Successor Agency, the community and the winding down of the Redevelopment Agency's businesses, and approved the Assignment Agreement; and

WHEREAS, the Oversight Board finds that the Assignment Agreement will reduce liabilities and increase net revenues to the taxing entities, and is in the best interests of the taxing entities, because it ensures the continued maintenance of the Property and resulting tax revenue and does not impact any of the rights or obligations of the Successor Agency.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. CEQA Compliance. Oversight Board staff has determined that the Oversight Board's approval of the Assignment Agreement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3), because it can be seen with certainty that there is no possibility that the Assignment Agreement may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of CEQA. The Secretary of the Oversight Board is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

Section 3. Approval of Agreement. The Oversight Board hereby approves the Assignment Agreement, in substantially the form attached to this Resolution as Exhibit "A."

Section 4. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the Oversight Board, execute any and all documents, and take any and all action necessary to carry out the purposes of this Resolution in compliance with applicable law.

Section 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6. Certification. The Secretary to the Oversight Board shall certify to the adoption of this Resolution.

Section 7. Effective Date. Pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

PASSED AND ADOPTED THIS 23rd day of February, 2017.

Chairperson

ATTEST:

Secretary

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss.
CITY OF ONTARIO)

I, _____, Secretary to the Oversight Board to the Successor Agency to the Ontario Redevelopment Agency, do hereby certify that the foregoing Resolution No. _____ was duly and regularly adopted by the Oversight Board to the Successor Agency to the Ontario Redevelopment Agency at a regular meeting thereof on the 23rd day of February, 2017 and that the same was passed and adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Secretary to the Board

EXHIBIT A

PARTIAL ASSIGNMENT AND ASSUMPTION OF
2007 OWNER PARTICIPATION AGREEMENT
(ONTARIO AIRPORT TOWERS VACANT LAND)
(PARCELS 6, 7, 8, 9)

[Attached behind this cover page]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

TNHYIF REIV INDIA, LLC
c/o True North Management Group
10 Bank Street, 12th Floor
White Plains, NY 10606
Attention: Girard Tunney, Principal

(Space above this line for Recorder's use only)

PARTIAL ASSIGNMENT AND ASSUMPTION OF 2007 OWNER PARTICIPATION
AGREEMENT

(Ontario Airport Towers Vacant Land)
(Parcels 6, 7, 8, 9)

This PARTIAL ASSIGNMENT AND ASSUMPTION OF 2007 OWNER PARTICIPATION AGREEMENT (this "Partial Assignment") dated as of _____, 2017, for reference purposes only, is made by and between TNHYIF REIV INDIA, LLC, a Delaware limited liability company ("Assignor"), and DB GRAND, LLC, a California limited liability company ("Assignee"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Owner Participation Agreement (as defined in Recital B).

RECITALS

A. Assignor owns that certain real property located in the City of Ontario, County of San Bernardino, State of California, located at the northwest corner of Guasti Avenue and Turner Avenue, which real property and is more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property"). The Property is part of a larger development more particularly described in Exhibit B attached hereto and incorporated herein by this reference (the "Development").

B. The Property is subject to the terms of that certain 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of September 4, 2007, by and between the Ontario Redevelopment Agency, a public body, corporate and politic, and Ontario Airport Center, LLC, a Delaware limited liability company ("OAC"), as amended by that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014, by and between the Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), and Assignor (collectively, the "Owner Participation Agreement"), which Owner Participation Agreement contains certain rights, duties and obligations relating to the development of the Development.

C. The Phase 1 PWI was completed and a Certificate of Completion – Ontario Airport Center (Phase 1), contemplated by the provisions of Section 4.10 of the Owner Participation Agreement was recorded in the Official Records of the County of San Bernardino (the "Official Records"), on April 17, 2009, as Document No. 2009-0163048.

D. Assignor is the successor-in-interest to OAC for purposes of the Owner Participation Agreement as the Owner Participation Agreement pertains to the Property.

E. Concurrently with the recording of this Partial Assignment in the Official Records, Assignee is acquiring the Property from Assignor.

F. Assignor agreed to assign to Assignee certain of its rights and interests under the Owner Participation Agreement, as such rights and interests relate to the Property. In addition, Assignor and Assignee agreed that Assignor would delegate to Assignee certain of the obligations of Assignor under the Owner Participation Agreement, which obligations would be assumed by Assignee. Accordingly, Assignor desires to assign and delegate certain rights and obligations under the Owner Participation Agreement to Assignee, and Assignee desires to accept such assignment and assume such obligations under the Owner Participation Agreement, as more particularly provided below in this Partial Assignment.

G. The purpose of this Partial Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights and interests and the delegation of certain duties and obligations of Assignor under the Owner Participation Agreement, as such rights, interests, duties and obligations relate to the Property.

NOW, THEREFORE, with reference to the foregoing Recitals, and in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Partial Assignment. As of the Effective Date (as defined in Section 3.7), Assignor hereby assigns, conveys and transfers to Assignee the rights and interests of Assignor, as the “Owner” of the Property under the Owner Participation Agreement solely to the extent such rights and interests relate to the Property, and Assignee hereby accepts such assignment. Notwithstanding the foregoing or anything to the contrary, this Partial Assignment shall not include any of the rights and interests of Assignor, as the “Owner” of the Property, or otherwise, under the Owner Participation Agreement, to receive “Yearly Tax Increment Payments” (as such term is defined in the Owner Participation Agreement) applicable to the Property or to any other portion of the Development. The assignment of any and all such rights shall be governed by separate Assignments of Yearly Tax Increment Payments under 2007 Owner Participation Agreement between the parties to be executed concurrently herewith.

2. Delegation and Assumption of Obligations. As of the Effective Date, Assignor hereby delegates to Assignee all of Assignor’s duties and obligations, as the “Owner,” under the Owner Participation Agreement solely to the extent such obligations relate to the Property, all of which obligations are hereby assumed by Assignee (collectively, the “Obligations”).

3. Miscellaneous.

3.1 Interpretation; Governing Law. This Partial Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Partial Assignment shall be construed in accordance with and governed by the laws of the State of California.

3.2 Attorneys' and Other Fees. Should any party institute any action or proceeding to enforce or interpret this Partial Assignment or any provision hereof, for damages by reason of any alleged breach of this Partial Assignment or of any provision hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing party in connection with such action or proceeding. The term "attorneys' and other fees" shall mean and include attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefor. The term "action or proceeding" shall mean and include actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

3.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Partial Assignment on behalf of such party is or are authorized to execute and deliver this Partial Assignment and that this Partial Assignment shall be binding upon such party.

3.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

3.5 Execution in Counterparts. This Partial Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

3.6 Conflict. As between Assignor and Assignee, in the event of any conflict or inconsistency between the provisions of this Partial Assignment and the provisions of the Owner Participation Agreement or any other documents, the provisions of this Partial Assignment shall govern and prevail.

3.7 Effective Date. The "Effective Date" shall mean the date upon which Assignee acquires fee title to the Property.

3.8 Recordation. The parties hereby authorize this Partial Assignment to be recorded in the Official Records upon the Effective Date.

3.9 Successors and Assigns. This Partial Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

(Signatures Follow on Next Page)

IN WITNESS WHEREOF, the parties have executed this Partial Assignment as of the date first set forth above, to be made effective as of the Effective Date.

“ASSIGNOR”

TNHYIF REIV INDIA, LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

“ASSIGNEE”

DB GRAND, LLC, a California limited
liability company

By: _____

Name: _____

Its: _____

SUCCESSOR AGENCY CONSENT

The Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the “Successor Agency”), as party to the Owner Participation Agreement, consents to the foregoing Partial Assignment and Assumption of 2007 Owner Participation Agreement (“Partial Assignment”) pursuant to the provisions of Section 9.3 of the Owner Participation Agreement. The Successor Agency hereby releases Assignor as the “Owner” under the Owner Participation Agreement of all Obligations relating to the Property arising prior to the Effective Date. The Successor Agency hereby agrees that from and after the Effective Date, Assignee shall be solely liable for the performance of all Obligations as the “Owner” under the Owner Participation Agreement as such Obligations relate to the Property, and in no event shall the Successor Agency deem Assignor or any other owner of property within the Development in default under the Owner Participation Agreement as a result of a breach by Assignee of the Obligations Assignee has assumed in the foregoing Partial Assignment. Further, Successor Agency hereby confirms that pursuant to Section 8.4(c) of the Owner Participation Agreement, the Successor Agency’s sole and exclusive remedy as a result of Assignee’s failure to complete the PWI, or any Phase thereof, in accordance with the Schedule of Performance, is subject to the limitations set forth in Section 8.4(c) the Owner Participation Agreement. Finally, the Successor Agency acknowledges that to its best information and belief, no defaults exist under the Owner Participation Agreement and the Owner Participation Agreement remains in full force and effect.

Date: _____, 2017

“SUCCESSOR AGENCY”

THE SUCCESSOR AGENCY TO THE
ONTARIO DEVELOPMENT AGENCY,
a public body, corporate and politic

By:

Name: _____

Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

Legal Description of the Property

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCELS 6 TROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs: 0210-192-21-0-000 (Parcel 6), 0210-192-22-0-000 (Parcel 7), 0210-192-23-0-000 (Parcel 8) and 0210-192-24-0-000 (Parcel 9)

Exhibit B

Legal Description of the Development

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCELS 1 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0210-192-13-0-000 and 0210-192-16-0000 and 0210-192-17-0000 and 0210 192 18 0000 and 0210-192-19-0000 and 0210-192-20-0000 and 0210-192-21-0000 and 0210-192-22-0000 and 0210-192-23-0000 and 0210-192-24-0000 and 0210-192-14-0-000 and 0210-192-15-0-000