

Attachment D

Memorandum of
Understanding between the
City of Los Angeles and Grand
Avenue L.A., LLC

ATTORNEY CLIENT PRIVILEGED DISCUSSION DRAFT 6/18/14

**Memorandum of Understanding Between the City of Los Angeles and
Grand Avenue L.A., LLC**

The above listed parties enter into this Memorandum of Understanding (MOU) as of ___, 2014, to provide non-binding guidelines for the revision of previously approved documents, and completion of new agreements, as needed, between the parties for development of the Grand Avenue Project including a proposed hotel.

PROJECT BACKGROUND

The Los Angeles Grand Avenue Authority (Authority) was created through a Joint Exercise of Powers agreement entered into by and among the County of Los Angeles (County), The Community Redevelopment Agency of the City of Los Angeles, California (CRA) (which has been succeeded by The Community Redevelopment Agency of the City of Los Angeles, California, a designated local agency (CRA/DLA), and the City of Los Angeles (City) on or about September 2, 2003 for facilitating the development of the Grand Avenue Project (the Project) on four parcels of land owned by the CRA and the County commonly referred to as parcels Q, L, M-2, W-2 in the Bunker Hill Redevelopment Project Area. The Authority conducted a competitive solicitation to identify a developer for the Project and selected The Related Companies (Developer).

The Project is intended to create a vital urban destination on Bunker Hill with a vibrant regional center adding hotel, entertainment, restaurant and retail uses to the existing government, cultural and residential uses in the area. Improving public spaces has also been a focus, including transforming the former County Mall into the 16-acre Grand Park stretching from City Hall to the Music Center, together with numerous streetscape improvement projects. The Project now includes approximately 337,000 square feet of retail space, a 300 room four-star hotel (Hotel), up to 2,600 housing units comprised of condominium and rental, the Broad Museum, up to 5,000 parking spaces, and the now complete Grand Park.

Construction of the Parcel Q element of the project, including the hotel was scheduled to commence in 2008, but was delayed due to economic conditions. However, construction of the Grand Park, for which the Developer served as project manager, went ahead and the park opened in July 2012. In addition, the Developer has cooperated with amendments to the planned residential Phase II in order to provide for the development of the Broad Museum, a world-class contemporary art museum, together with a 370 space public garage on Parcel L. The Developer is under construction on Parcel M-2 with a 20-story, 271-unit residential tower with ground floor restaurant and other retail uses, and is cooperating with representatives of the Broad Museum and the CRA/DLA on a 24,000 square foot public plaza as part of Phase IIB.

In February 2007, August 2010, May 2012, and December 2012, the Authority approved various actions related to the phased development of the Project, including a First, Second, and Third Amendment to the Disposition and Development Agreement (DDA) between Developer and the Authority which provide for various revisions to the scope of development in accordance with the changes summarized above. On January 14, 2014, the Authority approved a revised concept plan

and project description for the development of Parcel Q of the Project. The program for Parcel Q includes approximately 200,000 square feet of dining and entertainment venues, restaurants, signature retailers and a series of small shops; the Hotel; a public plaza with public programs and amenities; a pavilion for special events; parking; and approximately 450 housing units, 20% of which will be affordable to low income households.

Implementation of the new project design for Parcel Q requires amendments to the DDA, the Fourth Amendment, and various approvals and actions associated with that amended DDA. The Authority, as well as the County and the CRA/DLA in their governmental capacity have approved the terms of the proposed Fourth Amendment to the DDA which includes an updated hotel program for Parcel Q. The City, as a responsible agency, is also required to consider and take action on the Fourth Amendment to the DDA. In addition, revisions to the City Agreements are necessary to implement the hotel financing elements of the Fourth Amendment to the DDA and to reflect updates to the project design and current financial conditions related to the hotel.

The Hotel remains a critical component of the Project and is seen as catalytic to the success of the remaining Project elements. The Hotel not only provides the impetus to activate the public use of the site, it also provides the foundation for the Project's retail, commercial and restaurant uses. The Hotel is now designed to be constructed and maintained as a full-service, four-star facility, providing approximately 300 guest rooms. Given the uniqueness of the Parcel Q design as a centerpiece for the Project and the entire Project as a significant cultural center for downtown Los Angeles, the Parcel Q design is expected to generate its own market and become a focal point highlighting Grand Avenue as a destination location.

CITY INVESTMENT

The sources of City support for the financing and implementation of Parcel Q are outlined below. The City finds these terms to be acceptable in concept for negotiation and clarification of amendments to the City's prior agreements, subject to the terms of this MOU, and any other documentation necessary and appropriate to support the implementation of the development of Parcel Q as now proposed. The concepts to be further considered and negotiated are:

1. Community Taxing District (CTD): On December 2, 2008, the Los Angeles City Council approved Ordinance No. 108042 thereby creating City of Los Angeles Community Taxing District No. 2 (Grand Avenue Project) for the purpose of providing an estimated Sixty Six Million Dollars (\$66,000,000) (Financing Gap) in potential financial assistance measured by the Transient Occupancy Taxes (TOT) generated from the Hotel and Parking Occupancy Taxes (POT) received by the City from the Hotel's public parking facilities. The CTD will be revised to provide an estimated \$62,900,000 in potential financial assistance; this includes the estimated net present value of the TOT and the POT revenues received by the City (Revised Financing Gap) as further described in Paragraph 3.
2. City Agreements: The Parties entered into an implementation agreement (Implementation Agreement) on December 10, 2008 as well as other agreements entered into or approved in conjunction with the formation of the CTD (City Agreements) in order to set forth the terms and conditions of the City's provision of the agreed upon financial assistance. Those

agreements will be amended to reflect the current design and finance proposal for Parcel Q.

3. Tax Revenues: Based on the estimated net present value of TOT revenues through the CTD, the City Agreements will provide for a minimum of Forty Seven Million Three Hundred Thousand Dollars (\$47,300,000) in funding ("City Minimum TOT Commitment") over a twenty-five year term (TOT Term). The City will increase that funding to an amount not to exceed Fifty Eight Million Two Hundred Thousand Dollars (\$58,200,000) in estimated net present value TOT revenues, provided that such increase is subject to and conditioned upon further assistance from the County as set forth in paragraphs 15 and 16 below. In addition, the City will provide POT revenues through the CTD over a 10-year term (POT Term), with estimated net present value of an additional Four Million Seven Hundred Thousand Dollars (\$4,700,000), subject to and conditioned upon repayment to the City in accordance with repayment provisions set forth in the original Agreement. The amount and term of the City's assistance shall not exceed the commitment described in this paragraph.
4. City's Financial Analysis: The City has conducted an independent financial analysis which concurs in the Developer's assertion that the Parcel Q element of the Project has a Financial Gap.

CITY TERMS AND CONDITIONS

5. Conditional Obligations: The City's financing commitments will be conditional obligations payable solely from, or measured by tax revenues received by the City from the development of Parcel Q and be subject to the Developer, and Developer's tenants, including the Hotel Operators, continued compliance with all terms of the City Agreements.
6. Construction Costs and Parcel Q Financing Audit: Upon completion of development of the Hotel, Developer shall submit a certification from the architect for the Hotel stating that the improvements to the Site have been made in accordance with the Plans and Specifications and the terms of the Finance Documents. Upon (1) submission of the architect's certification, (2) a determination of final Hotel construction costs, (3) a determination by the City that Developer has completed the Hotel in full conformance with industry standards for a four-star hotel and the Plans and Specifications, (4) a determination by the City that Developer has satisfied all of Developer's development obligations under this Agreement and the City Agreements, and (5) completion of an independent audit of the development and construction costs, Developer and City will conduct an updated review of the Hotel development and construction costs and project financing and other factors as agreed to by the parties to reevaluate and adjust the maximum amount of City Financial Assistance Upon completion of this review, the term and amount of the TOT assistance may be adjusted, but may not be higher than the amount described in Paragraph 3 or longer than 25 years.

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7. Transfer of Hotel and Property: The Developer shall not sell, assign, convey or transfer the Hotel or the leasehold interest in the parcel of real property upon which the Hotel is located without the prior written consent of the City for the duration of the Term.
 8. Hotel Rating: The Hotel will achieve and maintain a four star rating as defined and as determined by the Mobil Travel Guide, or at an equivalent level by an alternative nationally recognized hotel rating service for the duration of the Term.
 9. Hotel Operator: The initial Hotel Operator will be changed from Mandarin Oriental to sbe/SLS and any proposed change during the Term shall require the prior written approval of the City.
 10. Hotel Operation: The Hotel shall be operated in accordance with the hotel operating covenants and all other restrictions set forth in the City agreements for the entire term.
 11. Construction Sales Tax: The Developer will cause the City of Los Angeles to be designated as the “point of sale” for all construction related purchases including purchases made by any subcontractors of the developers of the hotel and the rest of Parcel Q.
 12. Community Benefits Package: A Community Benefits Package has previously been approved by the City for development of the Hotel and other portions of Parcel Q. The package includes affordable housing, local hiring, living wage requirements, job training and job creation, open space, and inclusion of art elements.
 13. Cooperation: The City has previously approved entitlements for the site including a Development Agreement and will continue to cooperate in processing any requests for variances, amendments or other modifications of the various land use controls to accommodate the scope of development in the plans and specifications prepared for the Project.
 14. Site Map: Attached hereto as Exhibit A and incorporated herein.
 15. Additional Potential Contributions from County: The Developer represents and the City’s independent financial analysis has confirmed that the financial gap on the Hotel exceeds the revenue participation amounts provided in this MOU. The City’s financial analysis also indicates that the revenue participation amount in this agreement is less than the potential revenue participation amount of 50% of net new revenues that would be supported by City policy and past precedent. The same analysis projects that the County, which is the fee owner of the Parcel Q property, would also receive significant net new revenues from Parcel Q, though significantly less than the amount the City is projected to receive. Specifically, the analysis projects that the City will receive 81% of revenues and the County will receive 19% of revenues from development on Parcel Q. In this case, the City has determined that the TOT it provides to the Parcel Q project should not exceed 81% of the TOT that could otherwise be available, absent additional County participation to assist in closing the remaining development gap to ensure adequate financial assistance. Such County additional financial assistance should be in proportion to its 19% share of revenues from Parcel Q. Developer and City will cooperate with the County to request such additional assistance in the amount set forth in paragraph 16, below. The Developer will

seek to reach a separate written agreement with the County whereby the County would agree to fund an amount that would bring County and City contributions proportional to the total amount of net new revenue generated by Parcel Q for each respective agency (currently estimated at 81% City and 19% County). However, the outcome of such negotiations shall not alter the City's minimum commitment as described in this Agreement.

16. City Maximum Contribution: In no circumstance shall the total of the City's contribution from all sources exceed 50% of the City's share of the sources of Net New Revenues collected by the City. Net New Revenues shall be defined as City General Fund tax revenues collected by the City as a result of Parcel Q less the revenues currently generated to the City by Parcel Q, recognizing that the site is currently occupied by a parking garage.
17. Cooperation: In the event that the City and the Developer agree to alter or amend the CTD funding structure, the Parties shall cooperate in drafting any documents necessary to effectuate such transfer.
18. Costs: Developer shall reimburse the City for any costs associated with a revision of the funding structure up to a maximum of \$25,000.
19. Government Code Section 53083: Developer shall cooperate with the City in complying with the disclosure and public hearing requirements set forth in Government Code Section 53083, including, to the extent necessary providing any tax data or confidentiality waivers deemed by the City as necessary to ensure compliance with all statutorily required reporting requirements.

MOU IMPLEMENTATION

The parties further acknowledge and agree that this MOU is merely an expression of the Parties agreement in concept to the terms to be negotiated and further acknowledge and agree that the terms set forth in this MOU are not binding on any of the parties.

This MOU authorizes the Parties to negotiate and draft written agreements, which may include amendments to previously approved agreements and/or any other documents necessary to implement the terms of any agreed upon restructuring of the terms or conditions of any City Agreement, or to the extent applicable, any other agreement to which the City may or may not be a party but which is necessary to effectuate the terms of the Parties' agreement, i.e., the terms of the additional County Assistance. The Developer acknowledges and agrees that the final agreements, as well as any ordinances or other legislative acts necessary to effectuate the terms of any proposed agreement between the Parties must be approved by the City Council and, if applicable, the Mayor, as set forth in the Los Angeles City Charter and/or Administrative Code or as otherwise required by law.

IN WITNESS WHEREOF, the parties executed this Memorandum of Understanding on the dates indicated.

THE CITY OF LOS ANGELES:

By: [_____] _____

Date: _____

DEVELOPER:

GRAND AVENUE L.A., LLC,
a Delaware limited liability company,

By: THE RELATED COMPANIES, L.P.,
a New York limited partnership
its Administrative Member

By: The Related Realty Group, Inc.,
a Delaware corporation,
its sole General Partner

By: _____
[Name and Title]

Date: _____

APPROVED AS TO FORM:

[Name], City Attorney

By: _____
[Name]
Senior Assistant City Attorney

Date: _____

ATTESTED:

[Name], City Clerk

By: _____
Deputy City Clerk

Date: _____