

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: April 12, 2021

TO: Honorable Members of the City Council

FROM: Sharon M. Tso *Smitzo* Council File No. 14-0425-S4
Chief Legislative Analyst Assignment No. 21-04-0303

SUBJECT: First Amendment to Option Agreement for Bunker Hill Parcel Y-1

SUMMARY

On January 8, 2015, the City of Los Angeles (City) and CRA/LA, A Designated Local Authority (CRA/LA) entered into an Option Agreement that allows the City the right to market and the option to purchase Bunker Hill Parcel Y-1 located at 361 South Hill Street (Property) in Downtown Los Angeles (C.F. 14-0425). The Option Agreement describes the process by which fair market value (FMV) is determined for the Property which results in the final purchase price. The process was conducted in early 2017 and resulted in a FMV of \$45.7 million.

Also in 2017, the City conducted and concluded a Request for Qualifications and a Request for Proposals process to solicit development interest for the Property. On December 13, 2017, the City Council approved the selection of Angels Landing Partners (Developer) as the preferred developer of the Property following a competitive selection process. On March 28, 2018, the City and Angels Landing Partners, LLC (Developer) entered into an Exclusive Negotiation Agreement (ENA) for the Angels Landing project (Project), a 1.2 million square foot mixed-use development (C.F. 14-1174-S4; Contract No. C-131103). The Developer's response to the RFP included a purchase price of \$50 million for the Property, \$4.3 million above the 2017 FMV. Under the ENA, however, the final purchase price would be determined by the FMV process prescribed in the Option Agreement or \$50 million, whichever was greater.

In January 2020, the Developer requested that the City pursue an amendment to the Option Agreement to establish a fixed purchase price of \$50 million. Establishing a fixed purchase price would improve the Developer and City's ability to assess the economic feasibility of the Project and not be subject to fluctuations in the real estate market that may adversely impact the Project. In May 2020, the City, in support of the Developer and Project, made a request to the CRA/LA to amend the Option Agreement to establish price certainty for the Property. Such an amendment is subject to the approval of the City Council and the governing bodies of the CRA/LA. Therefore, Council action is needed to approve the form of the First Amendment to the Option Agreement and authorize the Mayor to execute the document and request that it be transmitted to CRA/LA for consideration by its governing bodies.

RECOMMENDATIONS

That the City Council, subject to the approval of the Mayor:

1. Approve the form of the First Amendment to the Option Agreement between the City of Los Angeles (City) and CRA/LA, A Designated Local Authority (CRA/LA) for CRA/LA-owned property recognized as Bunker Hill Parcel Y-1 and as provided substantially in conformance with

the draft included as Attachment A and subject to the review and approval of mutual parties' legal counsel as to form and legality; and

2. Authorize the Mayor, or designee, to execute the First Amendment to the Option Agreements for Bunker Hill Parcel Y-1 (C.F. 14-0425; Contract No. C-125178) and request that the Mayor transmit to CRA/LA for further consideration.

BACKGROUND

On January 8, 2015, the City and CRA/LA entered into an Option Agreement for CRA/LA-owned real property identified as Bunker Hill Parcel Y-1 located at 361 South Hill Street (Property) in Downtown Los Angeles (C.F. 14-0425; Contract No. C-125178). The Option Agreement allows the City the right to market and the option to purchase the Property at fair market value for the purpose of redeveloping it in a manner that is consistent with the goals and objectives of the Bunker Hill Redevelopment Plan and in a manner that best serves the needs of the City and the affected taxing entities. The initial term of the Option Agreement was three years and there have been three extensions to accommodate preparation of entitlements for the Property. The current expiration date of the Option Agreement is August 1, 2022.

Pursuant to Section 12 of the Option Agreement, fair market value (FMV) is determined by an averaging of dueling appraisals obtained by the City and CRA/LA. The FMV determines the purchase price of the Property. In early 2017, the FMV of the Property was determined to be \$45,700,000.

Also in 2017, the City conducted a Request for Qualifications (RFQ) followed by a Request for Proposals (RFP) to solicit development interest for the Property. As a result, on December 13, 2017, the City Council approved the selection of Angels Landing Partners LLC (Developer) as the preferred developer of the Property (C.F. 14-0425-S4). Angels Landing Partners LLC is a joint venture of the Peebles Corporation, MacFarlane Partners, and Claridge Properties. The City Council further instructed the Chief Legislative Analyst to negotiate and execute an Exclusive Negotiation Agreement (ENA) with the Developer which was completed on March 28, 2018 (Contract No. C-131103). The ENA allows the City and Developer to begin negotiations related to the final terms for disposition of the property. Definitive agreements resulting from those negotiations are subject to City Council review and approval.

The Project, as described in the Developer's response to the RFP, is to consist of a mixed-use, pedestrian and transit oriented development, encompassing approximately 1.2 million square feet of buildable area in two towers that would include hotel, retail, restaurant, residential (for sale and for rent, including a portion of affordable units), parking, and recreational uses. The Developer's bid also included a \$50 million purchase price for the Property which exceeded the FMV for the Property determined by the City in 2017. It was ultimately agreed upon by both parties in the ENA that the final purchase price would be either the FMV of the Property at the time the definitive agreements are executed, as prescribed by the Option Agreement, or \$50 million, whichever amount is greater.

The past two years have consisted of the Developer securing entitlements for the Project and completing California Environmental Quality Act (CEQA) review. Concurrently, the Developer and City have been negotiating the terms of the definitive agreements that will allow the City to exercise its Option and subsequently sell the Property to the Developer to facilitate development of the Project. The Developer has requested a Hotel Development Incentive Agreement (HDIA) from the City that would provide financial support to the development of the hotel component of the Project. In order to provide stability in the Project's financial proforma and allow for a proper analysis of the Project's feasibility, it is important to have the most current and accurate cost assumptions and revenue projections possible. As such, land value is a key component of any financial proforma.

On January 28, 2020, the Developer requested that the City pursue an amendment to the Option Agreement that, among other things, provides purchase price certainty. Such an amendment would establish a fixed purchase price of \$50 million and remove the FMV process the Option Agreement currently mandates. The Developer has assumed the land price at \$50 million, which reaffirms their RFP bid and the amount is a premium to the 2017 FMV. Establishing a fixed purchase price would improve the Developer and City's ability to assess the economic feasibility of the Project and not be subject to fluctuations in the real estate market that may adversely impact the Project.

On May 21, 2020, the City, through the Office of the Mayor, communicated to CRA/LA its desire to support the Developer in their request to amend the Option Agreement to establish a fixed purchase price for the Property. CRA/LA staff have expressed initial support of this request. To fix the purchase price, an amendment to the Option Agreement is required, which is subject to the approval of the City Council as well as the CRA/LA Governing Board and Oversight Board, and the State Department of Finance. In order for CRA/LA to proceed in seeking an amendment to the Option Agreement, they have asked that the City act first in approving the proposed amendment. The form of the First Amendment to the Option Agreement (First Amendment) is attached for consideration. The First Amendment only replaces the FMV process for the Y-1 property with the establishment of a fixed purchase price of \$50 million. No other changes to the terms of the Option Agreement are included in the First Amendment and no further changes to the form of the First Amendment are anticipated by the parties.

If the First Amendment is approved by the City and CRA/LA, the fixed purchase price of \$50 million will be reflected in the future definitive agreements that will be presented to the City Council for review and approval. City staff and the Developer expect to complete that process within the next 12 months and prior to the expiration of the Option Agreement.

FISCAL IMPACT

Approval of the recommendations in this report will not have an impact on the General Fund. The extent of any future impact on the General Fund is unknown at this time.

Oscar O. Ixco - rg
Oscar O. Ixco
Analyst

Attachment A: First Amendment to the Option Agreement for Bunker Hill Parcel Y-1

FIRST AMENDMENT TO OPTION AGREEMENT
(Property Retained for Future Development)
(361 S. Hill St., Los Angeles, California a.k.a. "Parcel Y-1")
(A.P.N. 5149-010-951 & 952)

This First Amendment to Option Agreement (this "First Amendment") is entered into as of this _____ day of _____, 2021 by and between CRA/LA, a Designated Local Authority ("CRA/LA") and the City of Los Angeles, a municipal corporation (the "City") with reference to the following facts.

RECITALS

A. WHEREAS, CRA/LA and the City entered into that certain Option Agreement dated as of January 8, 2015 (City Contract No. C-125178; the "Option Agreement") to provide the City with an option to purchase Parcel Y-1 (the "Property") owned by CRA/LA and located in Los Angeles; and

B. WHEREAS, the Option Agreement had an original term of three (3) years (the "Initial Term"); and

C. WHEREAS, pursuant to Recital G of the Option Agreement, on September 28, 2017, the Assessor Parcel Number of the Property was changed from 5149-010-939 to 5149-010-951 and 952 as a result of the recording of the Angels Flight parcel map; and

D. WHEREAS, on January 4, 2018, the CRA/LA Governing Board approved an 18-month extension (through July 11, 2019) to the Initial Term (the "First Extended Term"); and

E. WHEREAS, on June 25, 2018, the CRA/LA Governing and Oversight Boards approved the Disposition Plan for the Property; and

F. WHEREAS, on November 1, 2018, the CRA/LA Governing Board approved a 16-month extension (through November 11, 2020) to the First Extended Term (the "Second Extended Term");

G. WHEREAS, on October 1, 2020, the CRA/LA Governing Board approved a 20-month extension (through August 1, 2022) to the Second Extended Term (the "Third Extended Term"); and

H. WHEREAS, the extensions to the First Extended Term, the Second Extended Term and Third Extended Term were each evidenced by an approval letter sent to the City by CRA/LA; and

I. WHEREAS, on April 12, 2017 and August 17, 2017, the City conducted a Request for Qualifications and Request for Proposals, respectively, for development of the Property; and

J. WHEREAS, on December 13, 2017, the City approved Angels Landing Partners (Developer) as the preferred developer of the Property based on their proposal to develop a mixed-use, pedestrian and transit oriented development, encompassing approximately 1.2 million square feet of buildable area in two towers, and including hotel, retail, restaurant, residential (for sale and for rent, including affordable units), parking, and recreational uses (the "Proposed Project"); and

K. WHEREAS, on March 28, 2018, the City and Developer entered into an Exclusive Negotiation Agreement to enter into negotiations with the Developer for the potential disposition and development of the Property in accordance with the terms of the Option Agreement; and

L. WHEREAS, the City has requested to amend the process for designating the Purchase Price in the Option Agreement;

M. WHEREAS, CRA/LA and the City at the request of the Developer now wish to amend the Option Agreement pursuant to this First Amendment to set the Purchase Price for the Property at Fifty Million Dollars (\$50,000,000.00) in support of the Proposed Project.

NOW, THEREFORE, in reliance of the foregoing and in consideration of the mutual covenants, agreements and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CRA/LA and the City agree on the following:

1. Definitions. The following definitions in the Option Agreement are revised as follows:
 - a. Appraised Value. The term "Appraised Value" is deleted.
 - b. City Appraiser. The term "City Appraiser" is deleted.
 - c. CRA/LA Appraiser. The term "CRA/LA Appraiser" is deleted.
 - d. Fair Market Value. The term "Fair Market Value" is deleted.
 - e. Purchase Price. The definition of Purchase Price is deleted in its entirety and replaced with the following:

"Purchase Price" means Fifty Million Dollars (\$50,000,000.00).
2. Appraisals of the Property. Section 12 of the Option Agreement is deleted in its entirety and replaced with: "Reserved".
3. Exercise of Option. The first two sentences of Section 13: Exercise of Option are deleted and replaced with the following:

"Exercise of Option". Prior to the expiration of the Term and following the approval of the Disposition Plan as provided in Section 6(b), the City may exercise the Option by delivering the Option Notice and by establishing an escrow with the Title Company specified in Section 14 below. The Option Notice shall set forth: (i) the Purchase Price (ii) the Closing Date, and (iii) shall have

attached thereto an agreement executed by the Developer and the City which requires the Developer to develop the Property in accordance with the Disposition Plan.

4. No Other Changes. Except as provided in this First Amendment, all terms and conditions of the Agreement shall continue in full force and effect. Only those provisions of the Agreement specifically amended herein shall be affected by this First Amendment.

5. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

6. Effective Date of First Amendment. This First Amendment is dated for convenience only. The effective date of this First Amendment is the latest of (i) the date this First Amendment is approved and executed by the CRA/LA, (ii) the date this First Amendment is approved and executed by the City and (iii) the date this First Amendment is approved by DOF.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CRA/LA:

Date: _____

CRA/LA, A DESIGNATED LOCAL AUTHORITY, a public body formed under Health & Safety Code Section 34173(d)(3)

By: _____

Estevan Valenzuela
Chief Executive Officer

APPROVED AS TO FORM:

GOLDFARB & LIPMAN LLP

By: _____

Thomas H. Webber
CRA/LA Counsel

Date: _____

CITY:

THE CITY OF LOS ANGELES, a municipal corporation

By: _____

William Chun
Deputy Mayor for Economic Development

APPROVED AS TO FORM:

MICHAEL N. FEUER,
City Attorney

By: _____

Robert P. Moore
Deputy City Attorney

ATTEST:

HOLLY WOLCOTT,
City Clerk

By: _____
Deputy City Clerk

Date: _____