

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: March 7, 2022

TO: Honorable Members of the Economic Development Committee

FROM: Sharon M. Tso *KEL*
Chief Legislative Analyst

Council File No. 16-0968
Assignment No. 22-02-0074

Extension of Exclusive Negotiation Agreement Regarding Development of the Lincoln Heights Jail

SUMMARY

On May 24, 2018, the City entered into an Exclusive Negotiation Agreement (ENA) with Lincoln Property Company and Fifteen Group (Developer) regarding the development of the Lincoln Heights Jail. During the course of negotiations, the City and the Developer have engaged regularly regarding development plans for the Lincoln Heights Jail. The ENA, which was set to expire on May 23, 2020, was amended by Council action as a result of delays resulting from environmental conditions at the site, with a new expiration of May 23, 2022.

Activities related to environmental cleanup of existing building conditions have caused the development of the Lincoln Heights Jail to fall behind the revised schedule due to the complexity of the project. Additionally, the effects of the COVID-19 pandemic have caused significant delays in environmental testing efforts, further delaying the development program. In order to fully conform with the current environmental code and make the building habitable, more time will be required to allow for testing and cleanup during negotiations with the Developer. Therefore, our Office recommends that Council instruct the Chief Legislative Analyst and request the City Attorney to negotiate and execute an amendment to the ENA with the Developer for an additional 12-month term with one 12-month extension at the option of the City.

RECOMMENDATIONS

That the City Council authorize the Chief Legislative Analyst and request the City Attorney to negotiate and execute an amendment to the Exclusive Negotiation Agreement with Lincoln Property Company and Fifteen Group to develop the Lincoln Heights Jail for an additional 12-month term with one 12-month extension at the option of the City, which should incorporate requirements that the proposed project provide the City with community benefits.

BACKGROUND

On September 20, 2016, Council approved a Motion (Cedillo-Price, et al.) instructing the Chief Legislative Analyst (CLA) and City Administrative Officer (CAO) to take various actions related to the adaptive reuse of the Lincoln Heights Jail, located at 401 Avenue 19, in Council District 1 (Site). On March 16, 2017, a Request for Proposals was issued seeking a development team to undertake the adaptive reuse of the Site. The City scoring panel for the Request for Proposals

selected Lincoln Property Company as the preferred developer for this project. Lincoln Property Company partnered with Fifteen Group as developers on the site at a later date.

On November 8, 2017, Council took action to instruct the CLA and City Attorney, with the assistance of the CAO and Economic and Workforce Development Department, to negotiate and execute an ENA with the Developer for a term of 12 months with one 12-month extension at the option of the City, which should incorporate a requirement that the proposed project provide the City with community benefits.

On May 24, 2018, the City and Developer entered into an ENA for a term of 12 months, which was subsequently extended for an additional 12 months.

On February 8, 2020, Council took action to amend the ENA, which was set to expire on May 23, 2020, for an additional term of 12 months with one 12-month extension at the option of the City. Due to continued delays related to environmental testing and mitigation efforts, and the outbreak of the COVID pandemic, the City opted to enact said 12-month extension and the ENA is now set to expire on May 23, 2022.

Environmental Cleanup Considerations


In the CLA's October 20, 2017, report concerning the results of the RFP, the Lincoln Heights Jail property was noted to require considerable investment to bring it up to current code. The two wings of the Jail were constructed in 1931 and 1949, respectively, and the building has not been modernized in any way. The Jail has been subject to vandalism, fallen into disrepair, and will require removal of hazardous materials in order to make the building habitable.

Since the ENA was executed, the City has been working with the EPA, County Fire, State Water Resources Control Board, and the California High-Speed Rail Authority to conduct an evaluation of hazardous materials at the site. On January 15, 2020, the EPA approved grant funding for a Phase II environmental assessment in order to perform additional required testing at the Jail. However, the onset of the COVID-19 pandemic and subsequent shutdowns in March 2020 forced considerable delays in the Phase II testing process, both related to procurement of environmental testing contractors, and to the on-site testing and analysis. Phase II results are now expected in the first quarter of 2022, with mitigation efforts to begin shortly after. None of these issues or delays were the responsibility of the Developer.

To fully conform with the current environmental code and make the building habitable, more time will be required to allow for testing and cleanup during negotiations with the Developer. As these requirements are outside the responsibility of the Developer and the City still seeks to move forward with this project, our Office recommends that Council instruct the CLA and request the City Attorney to negotiate and execute an amendment to the ENA with the Developer for an additional 12-month term with one 12-month extension at the option of the City.

FISCAL IMPACT

There is no fiscal impact associated with this action.


Alex Whitehead
Analyst