

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: February 8, 2023

TO: Honorable Members of the City Council

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No. 14-0425-S4
Assignment No: 23-01-0045

SUPPLEMENTAL REPORT CRA/LA FUTURE DEVELOPMENT OPTION SITE BUNKER HILL PARCEL Y-1 ANGELS LANDING

SUMMARY

On June 23, 2022, the Chief Legislative Analyst (CLA) released a report regarding the proposed key terms and conditions of certain definitive agreements related to the Angels Landing project (Project) located at 361 South Hill Street (Property) in Downtown Los Angeles (C.F. 14-0425-S4). Subsequent to the release of the CLA report, CRA/LA, A Designated Local Authority (CRA/LA), approved changes to the term of the Option Agreement between the City and CRA/LA for the Property. Further, Angels Landing Partners, LLC (ALP), the developer of the Project, has requested that Council consider a revision to a proposed key term to the Disposition and Development Agreement (DDA) between the City and ALP. Finally, City staff require authorization to conduct an assessment of an Economic Infrastructure Financing District (EIFD) for the Project at the request of ALP.

RECOMMENDATIONS

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

1. DETERMINE policy with regard to Section 18.c. of the Disposition and Development Agreement Key Terms and Conditions (DDA Term Sheet) between the City of Los Angeles (City) and Angels Landing Partners, LLC (ALP), attached to the Chief Legislative Analyst (CLA) report dated June 23, 2022 (C.F. 14-0425-S4), and replace Recommendation No. 2.a. from the June 23, 2022 CLA report as follows:
 - a. Repurchase Option (Section 18.c)
 - i. **City position:** the Repurchase Option term should reflect “the lesser of (i) the Purchase Price or (ii) the fair market value of the Property”
 - ii. **ALP position 1:** the Repurchase Option term should reflect “the greater of (i) the Purchase Price or (ii) the fair market value of the Property.”
 - iii. **ALP position 2:** the Repurchase Option term should reflect “(i) the Purchase Price; plus; (ii) the lesser of (A) the Pre-Development Costs (as defined below) and (B) the positive difference, if any, between (1) the Fair Market Value (as defined below) and (2) the Purchase Price; plus; (iii) fifty percent (50%) of the positive difference, if any, between (A) the Fair Market Value and (B) the sum of (1) the Purchase Price and (2) the Pre-Development Costs.
2. AUTHORIZE the CLA to AMEND the contract between the City of Los Angeles and Keyser Marston and Associates (Contract No. C-133026) by extending the term from March 31, 2023, to September 30, 2024; increase the amount from \$75,000 to an amount not to exceed \$150,000 with funds available in Fund 100, Department 28, Contractual Services Account 3040, to provide continued services related to the preparation of an economic and fiscal analysis of the Angels Landing project (Project) and an

analysis of establishing an Enhanced Infrastructure Financing District (EIFD) for the Project; and AUTHORIZE the CLA to make any technical corrections, revisions, or clarifications to the above instructions in order to effectuate the intent of this action.

DISCUSSION

On January 8, 2015, the City and CRA/LA entered into an Option Agreement for Bunker Hill Parcel Y-1, the designation of the Property in the Option Agreement (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 for the purpose of redeveloping it in a manner that is consistent with the goals and objectives set forth in the Bunker Hill Redevelopment Plan, the Five-Year Implementation Plan, and the Community Plan.

In 2017, the City conducted and concluded a competitive selection process consisting of a Request for Qualifications and subsequent Request for Proposals to solicit development interest for the Property. On December 13, 2017, the City Council approved the selection of ALP as the preferred developer of the Property. On March 28, 2018, the City and ALP entered into an ENA to begin the process of evaluating the Project and negotiating the terms of the definitive agreements needed to facilitate development of the Project (C.F. 14-1174-S4; Contract No. C-131103). Among those definitive agreements is a DDA between the City and ALP. The CLA is seeking Council authority to complete the DDA based on terms discussed in the June 2022 CLA report and in this report.

Option Agreement and California Senate Bill 1373

As indicated in the June 2022 CLA report, on May 19, 2022, the City, through the Office of the Mayor, requested that CRA/LA initially extend the term of the Option Agreement with CRA/LA to December 31, 2022, to allow the City additional time to finalize the relative definitive agreements for the Project. On July 7, 2022, the CRA/LA Governing Board approved the extension to the term of the Option Agreement from August 1, 2022, to December 31, 2022.

A further extension request was made by the City to the CRA/LA, at the request of ALP, to extend the term of the Option Agreement to September 30, 2024, subject to the approval of California State Senate Bill 1373 (SB 1373) which was approved by Governor Gavin Newsom in September 2022. SB 1373 amended the Surplus Land Act by extending the date by which the disposition of property must be completed, from December 31, 2022, to December 31, 2024. The extended time would allow the City and ALP to continue negotiations on the related definitive agreements for the Project. On December 6, 2022, the CRA/LA approved an extension to the City-CRA/LA Option Agreement to September 30, 2024, as allowed by SB 1373. This is the date by which the City must exercise its Option to purchase the Property from CRA/LA and close escrow before December 31, 2024.

City – ALP Disposition and Development Agreement

The June 2022 CLA report includes a non-binding term sheet between the City and ALP that contains the proposed key terms and conditions of the DDA for the Project (Attachment A to the June 2022 CLA report – DDA Key Terms and Conditions). The City and ALP were able to resolve all but two terms and the June 2022 CLA report presented Council with options to resolve these two terms. Since then, ALP presented another option for one of the terms for Council consideration.

Section 18(c) concerns the Repurchase Option which would allow the City to repurchase the Property from ALP if they fail to commence the Project within 10 years following the City/ALP close of escrow. The June 2022 CLA report presented two options for Council's consideration. The two options are repeated as follows:

City staff recommend that the repurchase of the Property be for an amount equal to “the lesser of (i) the Purchase Price or (ii) the fair market value of the Property as determined by appraisers selected by the City and the Developer.” ALP’s position is that it be “the greater of (i) the Purchase Price or (ii) the fair market value of the Property.”

On October 20, 2022, ALP requested that a third option be presented to Council for its consideration. That third option is as follows:

*18(c) In the event that the Developer fails to commence construction of a material portion of the Project within ten (10) years following the City/Developer Closing (provided that such ten (10)-year period shall be extended due to force majeure delay), the City shall have the right and option (the "**Repurchase Option**"), exercisable at the City's sole discretion for a period of ninety (90) days thereafter by written notice to the Developer, to purchase the Site for an amount equal the sum of:*

- (i) the Purchase Price; plus*
- (ii) the lesser of (A) the Pre-Development Costs (as defined below) and (B) the positive difference, if any, between (1) the Fair Market Value (as defined below) and (2) the Purchase Price; plus*
- (iii) fifty percent (50%) of the positive difference, if any, between (A) the Fair Market Value and (B) the sum of (1) the Purchase Price and (2) the Pre-Development Costs.*

"Pre-Development Costs" means, collectively, all out-of-pocket costs and expenses incurred by the Developer at the time the City exercises the Repurchase Option in connection with (i) its due diligence and feasibility analyses regarding the Site and the Project, (ii) the design, entitlement, approval, permitting and maintenance of the Project, (iii) the Developer's overhead costs and (iv) the Developer's cost of capital, including without limitation all debt and equity financing costs, in all applicable cases including without limitation all architectural, engineering, legal and consultant fees. "Fair Market Value" means the fair market value of the Property at the time the City exercises the Repurchase Option, as determined by a three-appraiser process.

Both of the ALP preferred options would likely result in the City having to pay more for the Property than the original sales price. The first ALP repurchase option would only allow the City to repurchase the property at the original sales price if the property value does not increase at the conclusion of the ten-year period. The second ALP repurchase option would set the price well above the original purchase price by adding reimbursement to ALP for their predevelopment costs and a portion of the increase in property value from the original purchase price should that occur.

City staff's recommendation to establish the repurchase price at the *lesser* of the Purchase Price or the fair market value of the Property, remains unchanged. Until the Project is actually built, the City will not have received any significant direct benefit from the sale of the Property to ALP other than its percentage share of the sales proceeds as a taxing entity and annual property taxes. There is uncertainty toward the value of the Property over the duration of the ten-year period and the City should not be subject to the possibility of having to pay a premium for the Property or to reimburse ALP for its pre-development costs should ALP fail to deliver the proposed Project under the terms of the Repurchase Option.

EIFD Analysis

The non-binding DDA term sheet also included a provision that the Developer may request that the City establish a financial mechanism to finance the construction, operation or maintenance of Project facilities and infrastructure, which may include the establishment of a Mello-Roos Community Facilities District or an Enhanced Infrastructure Financing District (EIFD) (Section 26. HDIA, CFD/EIFD and/or Other Financing Mechanism). This would be subject to a subsequent discretionary action of the Council.

ALP has formally requested that the City establish an EIFD to fund critical infrastructure components of the Project. Enhanced Infrastructure Financing Districts (EIFD), which are funded by future property tax revenue

increment allocations from both the City and County, can generate revenues to support such infrastructure, affordable housing, and community revitalization improvements. In order to initially evaluate this request, an independent financial analysis is needed.

The City has an existing contract with Keyser Marston and Associates (KMA) to provide an economic and fiscal analysis of the Project that includes an overall project feasibility analysis and the inclusion of a Hotel Development Incentive Agreement (Contract No. C-133026). An EIFD was not originally contemplated as a part of this process. As such, Council action is needed to extend the term of the KMA Contract from March 31, 2023, to September 30, 2024, to coincide with the expiration of the Option Agreement, increase the Contract limit amount from \$75,000 to \$150,000, and expand the scope of work to include the assessment of an EIFD for the Project. The KMA analysis is the first step in the process of determining if the Project can support an EIFD. Further Council action would be needed to authorize staff to develop and submit an EIFD participation application package to the County of Los Angeles that would describe the Project and contribution rates. Previous Council action allowed the City to accept \$150,000 from ALP to pay for such consultant services (C.F. 14-0425-S4). Of those funds, \$75,000 remains available for this purpose and the General Fund would not be impacted as a result of this action.


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