



Legislation Details (With Text)

**File #:** 17-1117      **Version:** 1      **Name:** ED - TOT Sharing Agrmnt w/American Life  
**Type:** Public Hearing      **Status:** Concluded  
**File created:** 11/28/2017      **In control:** City Council  
**On agenda:** 12/12/2017      **Final action:** 12/12/2017

**Title:** Recommendation to receive supporting documentation into the record, conclude the public hearing regarding an economic subsidy in connection with a Revised Transient Occupancy Tax Sharing Agreement with American Life, Inc., pursuant to California Government Code Section 53083; and

Authorize City Manager, or designee, to execute any and all documents necessary, including the First Amendment to the Purchase and Sale Agreement, attaching a Revised Transient Occupancy Tax Sharing Agreement for the property located at 100 East Ocean Boulevard, with American Life, Inc., a Washington corporation, or assignee, subject to compliance with the California Environmental Quality Act. (District 2)

**Sponsors:** Economic Development

**Indexes:**

**Code sections:**

**Attachments:** 1. 121217-H-2sr&att.pdf, 2. 121217-H-2sr Revised.pdf, 3. 121217-H-2 PowerPoint.pdf, 4. 121217-H-2 Public Correspondance.pdf

Date	Ver.	Action By	Action	Result
12/12/2017	1	City Council	approve recommendation	Pass

Recommendation to receive supporting documentation into the record, conclude the public hearing regarding an economic subsidy in connection with a Revised Transient Occupancy Tax Sharing Agreement with American Life, Inc., pursuant to California Government Code Section 53083; and

Authorize City Manager, or designee, to execute any and all documents necessary, including the First Amendment to the Purchase and Sale Agreement, attaching a Revised Transient Occupancy Tax Sharing Agreement for the property located at 100 East Ocean Boulevard, with American Life, Inc., a Washington corporation, or assignee, subject to compliance with the California Environmental Quality Act. (District 2)

On May 17, 2016, the City Council authorized a conditional Purchase and Sale Agreement (PSA) and conditional Transient Occupancy Tax Sharing Agreement (TOTSA) for the property located at 100 East Ocean Boulevard (Subject Property) (Exhibit A). Both transactions are subject to the City’s completion of a review and approval process in accordance with California Environmental Quality Act (CEQA). The Subject Property totals approximately 35,000 square feet and is improved with a public parking lot. Formerly owned by the Redevelopment Agency of the City of Long Beach, the Subject Property was identified in the Long Range Property Management Plan (LRPMP) with a permissible use of “Future Development,” allowing for the Subject Property to be conveyed to the City for disposition. The City conducted a Request for Proposals (RFP) process resulting in the proposal

submitted by American Life, Inc. (Buyer/Developer), being selected to move forward with the CEQA review process. The City has not previously committed to approving any development project, and by taking this action does not now commit itself to any particular development project.

At the time of initial authorization of the PSA, the Buyer/Developer conditionally proposed developing the Subject Property as a hotel (Proposed Use), and project costs in connection therewith were estimated to be \$165 million (for 350 hotel rooms) based on projected Net Operating Income for the Proposed Use, resulting in a projected economic gap of \$47 million. As a result, the City and the Buyer/Developer negotiated a TOTSA whereby the Buyer/Developer would receive 50 percent of the Transient Occupancy Tax (TOT) received by the City upon the completion of construction of the Proposed Use for a period of 20 years. The 50 percent share of TOT does not include the 3 percent share of TOT that goes to the Long Beach Tourism Business Improvement Area for the promotion and improvements of "The Long Beach Destination." City staff estimated that, over the 20-year term of the TOTSA, the Buyer/Developer and the City would each receive approximately \$27 million. After the 20-year period, the City would receive 100 percent of the TOT generated.

Following authorization by the City Council to execute a conditional PSA, a lawsuit was filed against the City challenging the Council's action on numerous grounds. In September 2017, the court ruled in favor of the City on all grounds. However, an appeal was filed, and resolution of the appeal is still pending.

### **Revised Transient Occupancy Tax Sharing Agreement (RTOTSA) Request**

Delays caused by the lawsuit have resulted in increased costs for labor, construction materials, and financing for the Proposed Use. To accommodate for these new costs, the Buyer/Developer has increased the number of proposed hotel rooms from 350 to 416, and added revenue generating amenities. Total projected development costs submitted by the Buyer/Developer have increased from \$165 million to \$262 million or approximately \$629,600 per room. This cost, when compared to the estimated present value, reflects an economic gap of approximately \$61 million for the modified Proposed Use. As a result, the Buyer/Developer has requested a RTOTSA to provide for more upfront reimbursement.

Under the RTOTSA, the Buyer/Developer seeks 80 percent of the TOT actually received by the City (not including the 3 percent TOT generated under the Long Beach Tourism Business Improvement Area), for a period of nine years. After the nine-year period, the City would receive 100 percent of the TOT generated for the remaining 11 years. Under the RTOTSA, the Buyer/Developer is projected to receive approximately \$27 million over the first nine years and the City is projected to receive approximately \$7 million. After year nine, the City is projected to receive 100 percent, or \$4.0 million, per year of the TOT generated by the Proposed Use for a total of \$50 million over the total 20-year term.

To verify the economic feasibility gap, City staff commissioned KMA, the City's real estate

consultant, to conduct an in-depth review of the revised Proposed Use proforma. The KMA analysis projects total development costs of approximately \$248 million for the revised Proposed Use based on similar construction costs for projects in the region, resulting in a projected economic feasibility gap of approximately \$47 million. Under the terms of the RTOTSA, the Buyer/Developer would receive approximately \$27 million, or 57 percent, of what is needed to cover the economic feasibility gap. KMA also recommends a minimum required investment of \$230 million by the Buyer/Developer to entitle the Buyer/Developer to receive the full \$27 million in TOT reimbursement. There are no proposed changes to the purchase price of the Subject Property, which remains at \$7,000,000, or \$197 per square-foot.

In addition to the RTOTSA, the Buyer/Developer has made a commitment to collective bargaining. Additionally, the Buyer/Developer has also committed to creating a safe workplace environment that includes the implementation of panic buttons for housekeeping workers.

The Buyer/Developer's Proposed Use is conceptual in nature only and remains expressly subject to the preparation, review and approval of (1) a specific development plan for the Subject Property, (2) appropriate documentation required by CEQA applicable to any proposed project on the Subject Property, and (3) an entitlements application with respect to such project. The requested action hereunder does not constitute a review or approval by the City of a development plan, environmental review, an entitlements application, or any other regulatory requirement applicable to the Subject Property or any proposed project thereon, and the City retains full discretion to impose mitigation measures, make modifications to the Buyer/Developer's Proposed Use, to consider alternatives to the Buyer/Developer's Proposed Use, and to disapprove the Buyer/Developer's Proposed Use.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on November 28, 2017 and by Assistant Finance Director Lea Eriksen on November 21, 2017.

Pursuant to California Government Code Section 53083, the Economic Development Subsidy Report was posted on the City's website on November 21, 2017. This report identifies the entity receiving the subsidy, the schedule for the subsidy, the description of the subsidy, statement of the public purpose for the entity, the projected tax revenue as a result of the subsidy, and the estimated number of jobs created by the subsidy. City Council action is requested on December 12, 2017, to ensure that development on the Subject Property can occur in a timely manner. The RTOTSA is conditioned upon the City completing its review and approval process under CEQA and the Buyer/Developer successfully processing the Proposed Use in accordance with CEQA.

If the City Council approves the RTOTSA, the Buyer/Developer obtains the necessary entitlements following completion of the CEQA process and the Subject Property closes escrow, then, upon Proposed Use occupancy, up to 80 percent of the TOT received by the City, not including the TOT associated with the Long Beach Tourism Business Improvement Area, will be rebated back to the Buyer/Developer, with 20 percent of the TOT retained by the

City. New TOT revenue generated by the Proposed Use is anticipated to total \$77 million over the 20-year period, of which the Buyer/Developer is anticipated to receive approximately \$27 million and the City \$50 million.

Assuming the Proposed Use is approved after completion of the appropriate CEQA review, the approval of this recommended action will provide continued support to our local economy by creating or facilitating the creation of approximately 1,700 short-term jobs and 360 long-term jobs.

Approve recommendation.

JOHN KEISLER  
DIRECTOR OF ECONOMIC DEVELOPMENT

APPROVED:

PATRICK H. WEST  
CITY MANAGER