



Legislation Text

File #: 21-0495, **Version:** 2

Recommendation to authorize City Manager, or designee, to execute a Sixth Amendment to the Purchase and Sale Agreement (PSA), and any necessary documents, with American Life, Inc., a Washington corporation, or assignee, for the property located at 100 East Ocean Boulevard amending specific provisions in the PSA. (District 2)

On May 17, 2016, City Council authorized a Purchase and Sale Agreement (PSA) and Transient Occupancy Tax Sharing Agreement (TOTSA) with American Life, Inc. (Buyer/Developer), in connection with the purchase and development of City-owned surplus property located at 100 East Ocean Boulevard (Subject Property) (Attachment) as a AAA-rated, Four Diamond full-service hotel (Proposed Use). Shortly thereafter, the PSA was executed, and the Buyer/Developer entered its Due Diligence Period as described by the PSA to begin site investigations to determine the feasibility of the Proposed Use on the Subject Property.

Subsequently, in 2016, a lawsuit was filed against the City and Buyer/Developer in connection with the Proposed Use, delaying Buyer/Developer progress and requiring multiple extensions to the Due Diligence Period via amendments to the PSA. The resulting delays from the lawsuit caused increases in labor costs, construction materials, and project financing, resulting in a significantly higher projected project feasibility gap. Therefore, on December 12, 2017, the City Council authorized amendments to the PSA and the TOTSA to help the Buyer/Developer close the projected project feasibility gap. Additionally, the Buyer/Developer committed to collective bargaining and to create a safe workplace including, among other safeguards, panic buttons for housekeeping employees. Due diligence has been ongoing since that time, during which the Buyer/Developer has been proceeding with CEQA review and the City's regulatory entitlement processes. The Proposed Use received Planning Commission approval on March 4, 2021.

While the Buyer/Developer has continued its efforts, the COVID-19 pandemic has significantly and adversely impacted the Hospitality Development industry in Long Beach. The COVID-19 surges in 2020 and early 2021, and accompanying closures/travel limits have exacerbated this situation, resulting in reduced demand for hotels and business travel in Long Beach. This has created less demand for new hospitality projects in the region and has resulted in a limited and unfavorable financing environment. To that end, the Buyer/Developer notified the City of its desire to amend certain PSA provisions. Specifically, the Buyer/Developer requested that it be afforded an extended Due Diligence period to ensure the Proposed Use is feasible and, if necessary, pursue alternative financing options. The City and Buyer/Developer have negotiated changes to the PSA, to limit further project feasibility gaps caused by the pandemic and to maximize the probability of the Subject Property being developed timely, and its highest and best use. As a result of the proposed changes,

amendments to the Due Diligence Period, Closing Date, Deposit, Assignment, and Notice Provisions of the PSA will also need to be made. Therefore, a Sixth Amendment to the PSA is requested.

The proposed Sixth Amendment to the PSA contains the following amended terms and provisions:

- Seller: City of Long Beach, a municipal corporation.
- Buyer/Developer: American Life, Inc., a Washington corporation.
- Amended Due Diligence Period: Due Diligence Period will expire 18 months from the date following Buyer/Developer's receipt of approval from the City's Planning Commission, which occurred on March 4, 2021.
- Deposit: The amount of the Deposit will be reduced from \$350,000 to \$100,000. Buyer/Developer has deposited \$40,000 into escrow. The remaining \$60,000 will be deposited upon the expiration of the Due Diligence Period.
- Amended Closing Date: Escrow will close the earlier of (i) 30 days following the date on which Buyer/Developer waives the Due Diligence Period and proceeds to Closing, or (ii) April 1, 2023.
- Assignment: Buyer/Developer will retain the ability to assign the PSA to any affiliate, parent or subsidiary entity, or other entity under the control of Buyer/Developer but also any entity under the majority control or majority ownership of Gregory Steinhauer, key employee and Principal of the Buyer/Developer.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on April 28, 2021 and by Budget Management Officer Rhutu Amin Gharib on May 4, 2021.

City Council action is requested on June 15, 2021, to allow the City and Buyer/Developer to execute the Sixth Amendment to the PSA, to ensure the Buyer/Developer can complete its due diligence without further delay.

There is no fiscal impact associated with this recommendation. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. Assuming the Proposed Use is ultimately constructed, the approval of this recommendation will provide continued support to our local economy by creating or facilitating the creation of both short-term and long-term jobs. However, the exact number of jobs that are to be created are unknown at this time.

Approve recommendation.

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JOHN KEISLER
DIRECTOR OF ECONOMIC DEVELOPMENT

APPROVED:

THOMAS B. MODICA
CITY MANAGER