



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: APRIL 23, 2014

FROM: PLANNING & ECONOMIC DEVELOPMENT

**SUBJECT: RESOLUTION NO. _____ FOR APPROVAL OF THE
SECOND AMENDMENT TO THE EXCLUSIVE NEGOTIATING
AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR
DEPARTMENT AND LA WATERFRONT ALLIANCE FOR THE
COMMERCIAL REDEVELOPMENT OF PORTS O' CALL**

SUMMARY:

It is recommended that the Board of Harbor Commissioners (Board) approve the Second Amendment to the Exclusive Negotiating Agreement (ENA) between the City of Los Angeles Harbor Department (Port) and LA Waterfront Alliance (Developer), collaboration between The Ratkovich Company and Jerico Development. The original ENA was for a term of 240 days plus a 120-day extension option exercised by the Executive Director for a total of 360 days. On March 6, 2014, the Board approved the First Amendment to the ENA, which extended the term an additional 60 days, expiring May 8, 2014. The Second Amendment proposes to extend the current term 30 days with options for additional 30-day extension periods and a not to exceed total extension period of 180 days. The proposed term extension would allow the Port and Developer to continue the required due diligence and complete the Financial Feasibility Analysis (FFA) required by the ENA. Further, it is recommended that the FFA become the financial responsibility of the Port with the Developer required to provide project specific information necessary to complete the FFA.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the Second Amendment to the Exclusive Negotiating Agreement between the City of Los Angeles Harbor Department and LA Waterfront Alliance;
2. Authorize the Executive Director to execute and the Board Secretary to attest to said Second Amendment, for and on behalf of the Board; and
3. Adopt Resolution No. _____.

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DISCUSSION:

Background/Context – The San Pedro Waterfront Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR), approved by the Board on September 29, 2009, included the redevelopment of the Ports O' Call site. The Ports O' Call site is entitled to support up to 300,000 square feet (SF) of visitor-serving commercial uses and up to 75,000 SF for a conference center. The existing parcel was developed as Ports O' Call Village in the 1960s and was a popular regional destination for several decades. The site currently features approximately 150,000 SF of restaurant and retail buildings with existing tenant leases set to expire December 31, 2014. The San Pedro Waterfront Project envisioned a comprehensive redevelopment of the Ports O' Call site, which would contribute to the transformation of the San Pedro waterfront and adjacent downtown San Pedro into a vibrant, world-class urban visitor-serving waterfront destination (Transmittal 1).

Following the release of a Request for Qualifications (RFQ) in July 2012, eight responses were received from interested developers and the LA Waterfront Alliance was selected. The LA Waterfront Alliance partnership of The Ratkovich Company and Jerico Development has extensive experience in developing visitor-serving retail projects. The Ratkovich Company is a Los Angeles-based development company with 40 years' experience in commercial property development, construction, renovation, and operations. Jerico Development is a San Pedro-based development firm that specializes in rehabilitating commercial buildings.

Exclusive Negotiating Agreement – On February 21, 2013, the Board approved the ENA with the Developer allowing both parties to perform due diligence relating to the redevelopment of the Ports O' Call site and negotiate a term sheet. The ENA was for a term of 240 days and was to expire on November 9, 2013. On October 23, 2013, the ENA option was executed extending the exclusivity period an additional 120 days. This option period expired March 9, 2014. Under the terms of the ENA, the Executive Director had the authority to execute the option to extend. On March 6, 2014, the Board approved the First Amendment to the ENA, extending the exclusive negotiation period 60 days, expiring May 8, 2014. During the 60 day extension period the parties were expected to continue the term sheet negotiation process and the Developer was expected to provide a written response to the Port's January 30, 2014 term sheet proposal. The Developer provided the Port a written response to the term sheet on March 25, 2014 as required by the First Amendment to the ENA.

Staff is requesting that the ENA term be extended 30-days with the option to further extend the term in 30-day increments. The total term extension would not exceed 180 days. During the 180 period the Port intends to complete the FFA. The initial 30-day extension will provide a compressed time frame to agree on the FFA scope of work and deliverables required from the Developer to commence the FFA preparation.

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Subsequent 30-day extensions are proposed to maintain flexibility and assure incremental tasks required for preparation of the FFA are provided in an expedited manner. The Second Amendment proposes to delegate authority for additional 30-day term extensions to the Executive Director. The Second Amendment would also require that the Port take financial responsibility for the FFA, instead of the Developer. Lastly, the Developer would be required to produce required data and provide any other assistance necessary to complete the FFA. Should the Board approve the Second Amendment, the ENA may be effective up to November 4, 2014.

Due Diligence Progress – During the term of the ENA (Transmittal 2), the Port and Developer have carried out tasks and prepared deliverables specified in the ENA. A summary of those tasks and deliverables and their current status is provided as Transmittal 3. The Developer has performed due diligence for the site, including a review of site conditions, structural adequacy, existing leaseholds, and financial information related to current operations. The Developer completed two public outreach meetings on April 2, 2013 and November 19, 2013, and has prepared a phased development concept for the site. The Developer has also employed CBRE, a real estate services company, to solicit targeted retailers that would be complementary to a proposed anchor tenant.

Concurrently, consistent with the terms of the ENA, the Port has completed the Phase I site characterization of the Ports O' Call site, reviewed Developer pro forma documentation, hired a consultant to prepare a waterfront parking study, initiated detailed infrastructure cost estimates, and supported the Developer's due diligence efforts. The Port and Developer have begun negotiations on a proposed term sheet, and the Developer has provided the Port a written response to the term sheet as required by the First Amendment to the ENA (Transmittal 4). Term sheet negotiations are currently on hold pending completion of the FFA.

Financial Feasibility Analysis – The FFA required to be produced by the Developer under Section 5.C.2.a of the ENA has not been commenced. The FFA will measure the potential financial success of the Developer's proposed project and will inform the parties regarding the potential risk and/or reward of future investments. The Second Amendment to the ENA proposes that the Port produce the FFA, instead of the Developer. The Port estimates completion of the FFA will occur within 180 days from the effective date of the Second Amendment. The Port's current estimate to complete the FFA is \$100,000. This estimate is based on a recent bid the Developer received for a similar scope of work. The Port will use existing prequalified contractors through the City of Los Angeles, Office of the Chief Legislative Analyst, to provide competitive proposals for completing the FFA.

Proposed Second Amendment to ENA – The proposed Second Amendment (Transmittal 5) to the ENA would initially extend the term of the ENA 30 days and allow

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for additional 30-day term extensions. The authority to extend the ENA for additional 30-day periods is proposed to be delegated to the Executive Director. The proposed Second Amendment would not change the Board's authority to terminate the ENA. The total term of the proposed ENA term extension would not exceed 180 days, and the ENA as amended would expire no later than November 4, 2014.

The Second Amendment would also require that the Port fund the FFA, instead of the Developer, as stated in Section 5.C.2.a of the ENA. Lastly, the Developer would be required to produce required data and provide any other assistance necessary to complete the FFA.

ENVIRONMENTAL ASSESSMENT:

The proposed action is limited to approval of an up to 180-day extension to the ENA with the LA Waterfront Alliance for continued negotiations on the redevelopment of Ports O' Call site. Any environmental assessment required for the final development concept would be conducted separately. Therefore, the Director of Environmental Management has determined that the proposed action, as an administrative activity, is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2 (f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

FINANCIAL IMPACT:

The proposed Second Amendment to the ENA provides both parties the opportunity to continue the required due diligence outlined in the ENA. Additionally, the proposed Second Amendment will shift the financial burden of the FFA to the Port. The current estimate to complete this work is \$100,000 pending completion of a competitive bid process. The ENA does not commit either party to proceed with a proposed development of the Ports O' Call site as any terms or agreements for the site must be brought before the Board and/or City Council for approval. During the term of the ENA, the Harbor Department and Developer are responsible for their own costs incurred related to the performance of their due diligence activities, with the exception of any CEQA/NEPA compliance costs, which will be shared between the two parties at the rate of 25 percent for the Harbor Department and 75 percent for the Developer. Harbor Department costs related to due diligence include staff time, an estimated \$100,000 for the FFA, and a 25 percent share of any CEQA/NEPA assessment work, which at this time is unknown pending the finalization of the development concept. Additional financial details for the proposed Ports O' Call development are pending further concept development and completion of the FFA.

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CITY ATTORNEY:

The Office of the City Attorney has prepared and approved the proposed Second Amendment as to form and legality.

TRANSMITTALS:

1. Site Map
2. Exclusive Negotiating Agreement
3. Summary of Tasks and Deliverables
4. Exclusive Negotiating Agreement First Amendment
5. Exclusive Negotiating Agreement Second Amendment

FIS Approval: KP (initials)

CA Approval: JP (initials)



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