



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 4 - 0 4 2 9
NOV 21 2014

REPORT RE:

**DRAFT ORDINANCE AUTHORIZING THE ADOPTION OF
A FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF LOS ANGELES AND CENTURY CITY REALTY, LLC**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 14-1130
CPC-2009-817-DA-M1

Honorable Members:

On June 12, 2014, the City Planning Commission recommended that the City Council adopt an ordinance authorizing the execution of a first amendment to the development agreement between Century City Realty, LLC (the Developer), and the City (the Amendment). On September 16, 2014, the Planning and Land Use Management (PLUM) Committee took an action requesting that our Office prepare and present this ordinance.

Pursuant to that September 16, 2014, request, this Office has prepared and now transmits for your consideration a draft ordinance, approved as to form and legality, and the Amendment in a form we can also approve.

Background

The City and Developer entered into a Development Agreement dated September 16, 2009 (CPC-2009-817-DA / Council File 09-1164), after adoption of Ordinance No. 180,765 by the City Council (the Original Agreement). The Original Agreement contemplated development of a high-density residential complex known as Constellation Park (the Approved Project). Developer is now requesting that the City modify the Original Agreement to enable the development of a 37-story office tower and ancillary commercial facilities as an alternative to the Approved Project (the Enhanced Retail Alternative). Developer had initially requested a slightly different version of the Enhance Retail Alternative. The Enhanced Retail Alternative for which it currently seeks approval includes a slight decrease in total office square footage and a slight increase in the retail square footage from what was initially proposed.

The substantive changes to the Original Agreement found in the Amendment include:

- Amendments to the definitions of “Project” and “Project Approvals” to include a description of the Enhanced Retail Alternative;
- An amendment to the term of the Original Agreement such that the term shall remain until September 18, 2018, for the Approved Project, but be extended until September 18, 2021, for the Enhanced Retail Alternative;
- If the Developer elects to develop the Enhanced Retail Alternative, there shall be additional obligations and community benefit fund payments, including: (a) a total contribution of \$2,500,000 to be dedicated to planning studies and regional transportation planning in the West Los Angeles area; (b) \$1,750,000 for regional transportation planning and the construction and development of transportation improvements in the South Robertson Boulevard (south of Pico Boulevard and north of the I-10 Freeway) and Beverlywood community areas through a program satisfactory to the Office of Council District 5; (c) the provision of a private shuttle connection between the Enhanced Retail Alternative and the Westwood/Rancho Park station of the Metropolitan Transportation Authority’s Expo Line; (d) the recordation of a covenant on the Property relinquishing 52.871 “Replacement Trips;” (e) an additional pedestrian walkway along the northern perimeter of the Project Site that is not otherwise required by the Century City North Specific Plan (CCNSP); (f) an approximately 2.14-acre (approximately 93,000 square feet) landscaped green roof deck on the parking structure which shall be open to members of the public between 6:00 a.m. – 8:00 p.m., seven days per week; (g) the Enhanced Retail Alternative’s Transit Plaza shall be designed to accommodate a portal for the Metropolitan Transportation

Authority's Century City Purple Line station; and (h) \$250,000 shall be contributed to the City's Affordable Housing Trust Fund, but if the Developer elects to develop the Approved Project, then \$500,000 will be contributed to the City's Affordable Housing Trust.

The Amendment was modified from the original Planning Commission action to add additional contributions to the Planning and Transportation Planning Improvement funds and to conform the Amendment to the City's standards.

City Planning Commission Action

On June 12, 2014, the City Planning Commission recommended that the City Council approve a first amendment to development agreement by and between the City and Century City Realty, LLC, in connection with its approval of the Enhanced Retail Alternative and related entitlements. It adopted the required Charter and Government Code findings prepared by the Department of City Planning that are contained in the Planning Department staff report to the City Planning Commission, at pages F-38 through F-39.

Findings

Pursuant to Charter Section 559, on November 21, 2014, the Director of Planning, on behalf of the Planning Commission, approved the draft ordinance and the current version of the Amendment, and recommended adoption by the City Council. Should the City Council adopt this ordinance, it may comply with the provisions of Charter Section 558 and the Government Code by adopting the findings adopted by City Planning Commission or by making its own findings.

California Environmental Quality Act (CEQA)

On August 4, 2014, the City Planning Commission took the following actions:

- (1) Certified the Subsequent Environmental Impact Report (EIR) Case No. ENV-2004-6269-EIR-SUP1;
- (2) Adopted: (i) modified conditions of approval; (ii) findings; (iii) a Statement of Overriding Considerations; and (iv) a Mitigation Monitoring and Reporting Program; and
- (3) Advised the Applicant that, pursuant to the State Fish and Game Code Section 71 1.4, a Fish and Game and/or Certificate of Game Exemption is now required to be submitted to the County Clerk prior to, or concurrent with, the Environmental Notices and Determination (NOD) filing.

Subsequent to the August 4, 2014, action by the Planning Commission, the City prepared Errata which contains insignificant modifications to the EIR. Therefore, the City Council may comply with CEQA by certifying the Subsequent EIR, including the Errata; adopting the findings of the Planning Commission as the findings of Council; adopting the modified conditions of approval; adopting the Statement of Overriding Considerations; and adopting the Mitigation Monitoring and Reporting Program

Council Rule 38 Referral

Pursuant to Council Rule 38, copies of the draft ordinance and the Amendment were sent to the Department of Building and Safety, the Department of Housing, and the Department of Transportation with a request that all comments, if any, be directed to your Honorable Body or your Committees at the time this matter is considered.

Government Code Requirements for Notice and Hearing

Before taking action on either the draft ordinance or the Amendment, the City must comply with the provisions of Government Code Sections 65867, 65090 and 65091. Those sections require, among other things, notice and a public hearing. In addition, the City's development agreement procedures state that the City Council shall not take any action on any development agreement prior to the expiration of a 24-day notice.

Recommended Actions

If the City Council wishes to approve the proposed ordinance and Amendment, it must:

- (1) Have previously taken action to adopt all the Project Approvals defined in the Amendment;
- (2) Certify that Subsequent EIR No. ENV-2004-6269- EIR-SUP1 and the Errata thereto: (a) has been completed in compliance with CEQA; (b) reflects the City's independent judgment and analysis; and (c) that the City reviewed and considered the information in the EIR prior to approval of the ordinance and the Amendment; and that the documents and other materials that constitute the record of proceedings on which the City based its action are located in the files of the City Planning Department and the Office of the City Clerk;
- (3) Adopt the Modified Conditions of Approval and Findings set forth in the August 4, 2014, Planning Commission determination;

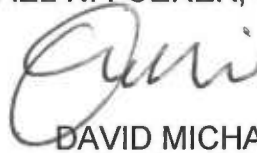
- (4) Adopt the Statement of Overriding Considerations and Mitigation Monitoring and Monitoring Program as set forth in the Planning Commissions August 4, 2014, determination; and
- (5) Adopt the enclosed draft ordinance authorizing the execution of the Amendment.

If you have any questions regarding this matter, please contact Deputy City Attorney Laura Cadogan Hurd at (213) 978-8177. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FUERER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM/LCH:pj
Transmittal

ORDINANCE NO. _____

An ordinance authorizing the execution of a First Amendment to Development Agreement by and between the City of Los Angeles and Century City Realty, LLC, a Delaware limited liability company (Developer), relating to real property in the Century City community of the City of Los Angeles at 10131 Constellation Boulevard.

WHEREAS, the City and Developer entered into a Development Agreement dated September 16, 2009 (CPC-2009-817-DA / Council File 09-1164), and recorded in the Official Records of Los Angeles County, California as Instrument No. 20091429410 on September 18, 2009, after adoption by the Los Angeles City Council as Ordinance No. 180,765 (the Original Agreement), pursuant to California Government Code Section 65864, *et seq.*, and the implementing procedures of the City;

WHEREAS, the Original Agreement contemplated development of a high density residential complex known as Constellation Park (the Approved Project);

WHEREAS, Developer has requested that the City modify the Original Agreement to enable the development of a 37-story office tower and ancillary commercial facilities as an alternative to the Approved Project;

WHEREAS, the City Planning Commission on June 12, 2014, recommended that the City Council approve the First Amendment to Development Agreement by and between the City of Los Angeles and Developer (the Amendment);

WHEREAS, on September 16, 2014, the City's Planning Land Use and Management Committee requested an ordinance approving the execution of the Amendment, which is attached to Council File No. 14-1130, which Amendment is hereby incorporated by reference and which is hereby incorporated into the provisions of this ordinance;

WHEREAS, after due notice, the City Planning Commission and the City Council did conduct public hearings on this matter;

WHEREAS, pursuant to California Government Code Section 65864, *et seq.*, the City Planning Commission has transmitted to City Council its findings and recommendations;

WHEREAS, the Amendment is in the public interest and is consistent with the City's General Plan as well as the West Los Angeles Community Plan, the Century City North Specific Plan and the West Los Angeles Transportation Improvement and Mitigation Specific Plan; and

WHEREAS, The City Council has reviewed and considered the Amendment and the findings and recommendations of the City Planning Commission.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The City Council finds, with respect to the Amendment, that:

(a) It is consistent with the City's General Plan and policies and programs specified in the West Los Angeles Community Plan, the Century City North Specific Plan and the West Los Angeles Transportation Improvement and Mitigation Specific Plan, and is compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is located;

(b) The intensity, building height and use set forth in the Amendment are permitted by, or are consistent with, the West Los Angeles Community Plan, the Century City North Specific Plan and the West Los Angeles Transportation Improvement and Mitigation Specific Plan;

(c) It will not be detrimental to the public health, safety and general welfare because it encourages the construction of a project that is desirable and beneficial to the public. Furthermore, the Amendment specifically permits application to the project of rules and regulations under Los Angeles Municipal Code Sections 91.101.1 to 98.0605 relating to public health and safety;

(d) It complies with all applicable City and State regulations governing development agreements; and

(e) It is necessary to strengthen the public planning process and to reduce the public and private costs of development uncertainty.

Sec. 2. The City Council hereby approves the Amendment and authorizes and directs the Mayor to execute the Amendment in the name of the City of Los Angeles.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By Laura Cadogan Hurd
LAURA CADOGAN HURD
Deputy City Attorney

Date November 21, 2014

File No. CF 14-1130

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted

November 21, 2014

See attached report.

Michael LoGrande
Michael LoGrande
Director of Planning

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
by and between
THE CITY OF LOS ANGELES
and
CENTURY CITY REALTY, LLC.**

dated as of

WHEREAS, the implementation of the Project Approvals and related actions will allow further development of either the Enhanced Retail Alternative or the Approved Project consistent with the objectives of the respective projects;

FIRST AMENDMENT

NOW, THEREFORE, pursuant to the authority contained in the Development Agreement Act, as it applies to the City, and in consideration of the mutual promises and covenants herein contained and other valuable consideration the receipt and adequacy of which the Parties hereby acknowledge, the Parties agree as follows:

1. Incorporation into Agreement. This First Amendment is hereby incorporated into the Agreement such that references to the “Agreement” or the “Development Agreement” in the Agreement’s text shall hereafter also include this First Amendment. Unless otherwise set forth or modified herein, all capitalized terms used in this First Amendment shall have the same meaning as provided in the Agreement.

2. Definitions. The following definitions shall apply in the Agreement and this First Amendment:

a) Amendment Date. The “Amendment Date” means the date on which this First Amendment is attested by the City Clerk of the City of Los Angeles after execution by the Property Owner and the Mayor of the City of Los Angeles.

b) First Amendment. The “**First Amendment**” means this **First Amendment to the Development Agreement by and between the City of Los Angeles and Century City Realty, LLC (CPC-2009-817-DA-M1; Council File 14-1130).**

c) Project. The “Project” as originally defined in Section 1.22 of the Agreement and described in Exhibit C of the Agreement is hereby revised to allow, as an alternative to the Project already defined, the development of the Enhanced Retail Alternative described in Exhibit 1 attached hereto and incorporated herein by reference. The revised definition shall read **as follows:**

1.22 “Project” means **the following as described in the Project Approvals: (1) development within the City on the Property as described in Exhibit C, including, but not limited to, construction of 483 residential condominium units in three buildings, subterranean parking facilities, open space and related amenities (“Approved Project”); or, as an alternative, (2) development within the City on the Property as described in Exhibit 1 to the First Amendment, including, but not limited to, construction of one 37-story, 700,000 square foot office building, low-rise one- and two-story office space, a Transit Plaza, public open space, ancillary retail uses, a Mobility Hub, and a partially subterranean parking facility (the “Enhanced Retail Alternative”).** as described in the Project Approvals.