City of Culver City, California
Agenda Item Report

Meeting Date: 09/12/2011	Item Number: JC-1
JOINT CITY COUNCIL AND AGENCY BOARD AGENDA ITEM: (1) City Council Approval of a Financial Contribution Agreement and (2) City Council and Agency Board Approval of (a) a License Agreement Related to Construction of Temporary Parking Spaces, (b) a License Agreement for Use, Operation, Maintenance, and Repair of Temporary Parking Spaces, (c) an Option Agreement for Perpetual Easement, and (d) a Perpetual Easement Agreement related to the Expo Light Rail Project and the Washington/National Transit Oriented Development.	
Contact Person/Dept.: John Nachbar	Phone Number: 310-253-6000
Fiscal Impact: Yes [X] No []	General Fund: Yes [] No [X]
Public Hearing: []	Action Item: [] Attachments: [X]
Commission Action Required: Yes [] No [X]	Date: _____
Public Notification: (E-Mail) Agenda and Meetings – City Council (09/08/11); Agenda and Meetings – Redevelopment Agency (09/08/11)	
Department Approval: John M. Nachbar (09/07/11)	City Attorney Approval/Agency General Counsel Approval: Carol Schwab (by H. Baker) (09/07/11)
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (09/07/11)	City Manager/Executive Director Approval: John M. Nachbar (09/08/11)

RECOMMENDATION:

Staff recommends the City Council approve a financial contribution agreement.

AND

Staff recommends the City Council and Agency Board approve:

(a) a License Agreement Related to Construction of Temporary Parking Spaces,
(b) a License Agreement for Use, Operation, Maintenance, and Repair of Temporary Parking Spaces,
(c) an Option Agreement for Perpetual Easement, and
(d) a Perpetual Easement Agreement.

All of the above agreements (collectively Agreements) relate to the Exposition Light Rail Project (Project) and/or the Washington/National Transit Oriented Development (WaNa TOD).

BACKGROUND:

The City Council and Agency Board have both taken various actions over the past several years to support the construction of the Exposition Light Rail Project's station in Culver City. This support has included an obligation of up to $4.0 million in funding from the City of Culver City to enhance the originally designed "at-grade" Culver City station to an aerial station, and approximately $3.0 million in funding from the Culver City Redevelopment Agency to enhance the aerial station columns and shoring wall to allow for subterranean parking adjacent to the rail station. As more particularly described in the various agreements, a portion of the funding comes in the form of "in-kind" (non-cash) contributions.

Pursuant to negotiation instructions provided by the City Council and Agency Board, over the past several years, staff has been in discussions with the Los Angeles County Metropolitan Transportation Authority (LACMTA also known as METRO) and the Exposition Metro Line Construction Authority (Authority also known as Expo) to negotiate the details of various agreements required to document the terms and conditions under which Culver City's funding would be released to METRO and Expo.

DISCUSSION:

Staff has concluded negotiations on five agreements which are presented for the City Council's and City Council's/Agency Board's consideration this evening. Following are brief summaries of these agreements:

Financial Contribution Agreement for Phase I of Metro Exposition Light Rail Transit Project

In general, this Agreement provides the terms and conditions under which the City shall convey up to $4.0 million in "City's Total Contribution" to LACMTA. Some highlighted terms and conditions include:

- City shall provide $2,261,719 in federal grant and local matching funds
- City shall construct the Robertson Improvements based upon construction drawings provided by the Authority
- City shall maintain the Bike Path once constructed by Authority in connection with the Project.
- Various property interests needed to be conveyed between the City and LACMTA shall be done at no cost to either entity.

License Agreement for Construction of Temporary Parking Spaces

Under this Agreement, the City and Agency grant to Authority a non-exclusive license to enter upon an across the City/Agency owned properties located at the intersection of Washington Boulevard and National Boulevard (Triangle Site) for purposes of constructing up to 600 temporary parking spaces for the Project. Authority shall bear all costs of construction of such temporary parking spaces.

License Agreement for Use, Operation, Maintenance, and Repair of Temporary Parking Spaces

This Agreement sets forth the terms and conditions under which LACMTA shall use, operate, maintain, and repair the temporary parking spaces constructed under the ***License Agreement for Construction of Temporary Parking Spaces*** above. It also provides for the allocation of Replacement [Parking] Spaces at the time the City/Agency begin the redevelopment of the Triangle Site.

Option Agreement for Perpetual Easement

This Agreement provides the City or Agency an option to acquire from LACMTA a perpetual easement on LACMTA property adjacent to the Triangle Site. The easement would allow the City/Agency to incorporate this property as part of the WaNa TOD.

Perpetual Easement Agreement

This is a form of Agreement for use in the case the Option conveyed by the ***Option Agreement for Perpetual Easement*** is exercised by either the City or the Agency.

Draft copies of the Agreements are provided as attachments to this staff report. Final versions may require additional language to be provided by City Special Counsel/Agency General Counsel or the City Attorney's Office. The City Council and Agency Board are requested (1) to approve the agreements as presented and authorize the City Special Counsel/Agency General Counsel and the City Attorney to make any last minute adjustments to the Agreements and (2) to authorize the City Manager/Executive Director to execute such final Agreements on behalf of the City and Agency, respectively.

Under the Supreme Court's recent Order staying a significant part of AB 26 X1 and all of AB 27 X1, the Agency's authority to enter into contracts is limited to certain items permitted under AB 26 X1. The provisions of AB 26 X1 authorize the Agency to enter into contracts required to perform "enforceable obligations." All of the duties

contemplated to be performed by the Agency under the Agreements to which the Agency is a party will be performed to pursue enforceable obligations (e.g. those projects contained in the Cooperation Agreements between the Agency and the City). Therefore, the Agency is authorized to be a party to these Agreements. Further, pursuant to the Memorandum of Understanding between the Agency, Authority, and City entered into as of January 18, 2011, the Agency is obligated to pay the funds and perform its obligations under these agreements.

FISCAL ANALYSIS:

Concurrently with the execution of these Agreements, the Agency and/or the City will be paying EXPO the balance of its reimbursement to EXPO of the extra costs involved in accommodating the Station for our potential use under the Easement, and that the source of such payment is part of the funds paid to the City by the Agency under the Cooperation Agreement.

The amount of the "City's Total Contribution" was appropriated as part of the City Council Adopted Budget for Fiscal Year 2011/2012. Funding has been allocated from the Redevelopment Agency and shall be derived from the former Agency assets now held by the City under the Cooperation Agreements between the Agency and the City, as appropriate.

ATTACHMENTS:

1. Financial Contribution Agreement
2. License Agreement for Construction of Temporary Parking Spaces
3. License Agreement for Use, Operation, Maintenance, and Repair of Temporary Parking Spaces
4. Option Agreement for Perpetual Easement
5. Perpetual Easement Agreement

MOTIONS:

That the City Council:

1. Approve a financial contribution agreement; and,
2. Authorize the City Attorney/City Special Counsel to review/prepare the necessary documents; and,
3. Authorize the City Manager to execute such documents on behalf of the City.

That both the City Council and Agency Board:

1. Approve (a) a License Agreement Related to Construction of Temporary Parking Spaces, (b) a License Agreement for Use, Operation, Maintenance, and Repair of Temporary Parking Spaces, (c) an Option Agreement for Perpetual Easement, and (d) a Perpetual Easement Agreement.
2. Authorize the City Attorney and Agency General Counsel to review/prepare the necessary documents; and,
3. Authorize the City Manager/Executive Director to execute such documents on behalf of the City and Agency, respectively.