



Legislation Text

File #: 20-0891, Version: 1

**Contract Request Template (Contracts; IGAs; Leases)**

**Date Submitted:** 8-24-20

**Requesting Agency:**  
**Division:**

**Subject Matter Expert Name:**

Name:	Susan Liehe	720-913-1689
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**Item Title & Description:**

*(Do not delete the following instructions)*

*These appear on the Council meeting agenda. Initially, the requesting agency will enter a 2-3 sentence description. Upon bill filling, the City Attorney's Office should enter the title above the description (the title should be in **bold** font).*

*Both the title and description must be entered between the red "title" and "body" below. Do **not** at any time delete the red "title" or "body" markers from this template.*

**A resolution approving a proposed Amendatory Agreement between the City and County of Denver and 48<sup>th</sup> and Race, LLC amending a loan to allow for an extension of time for job creation, foregoing immediate repayments in the event of a ground lease, and allowing for a partial release of collateral in the event of a ground lease for the acquisition of property.**

Amends a loan agreement with 48th and Race, LLC managed by the Urban Land Conservancy, by adding five years, allowing for an extension of time for job creation, foregoing immediate repayments in the event of a ground lease, and allowing for a partial release of collateral in the event of a ground lease, for the acquisition of property at 48th and Race for affordable housing in Council District 9. No change to agreement amount (OEDEV-202055580). The last regularly scheduled Council meeting within the 30-day review period is on 10-5-20. The Committee approved filing this item at its meeting on 9-2-20.

**Affected Council District(s) or citywide?** Council District 9

**Contract Control Number:** OEDEV-202055580

**Vendor/Contractor Name (including any "DBA"):** 48th and Race LLC

**Type and Scope of services to be performed:**

48th and Race LLC was funded by DEDO (formerly OED) in 2015 for the acquisition of property at 48th and Race. The loan was secured with the provisions of affordable housing, i.e., at least 51% of all housing created be affordable to those earning less than 80% AMI, and also placed a requirement for the creation of 26 jobs.

This amendment allows for four considerations:

- the release of property in the event of a land lease (currently the contract allows for a release of property in the event of a sale);
- the extension of the performance timeline for the job creation, from five years to ten;
- allowing for a subordination to easements; and
- eliminating the requirement of immediate loan payments to be made in the event of a land lease.

The proposed amendment to extend the amount of time for the developer to create the contractually required jobs represents the city's long-term commitment to the project and to the proven capabilities of the developer. DEDO is optimistic that the developer will not need five additional years to reach its 26-job goal (a goal that it has partially met), but proposes the five-year extension in order to avoid additional contract amendments for two, three, or four years.

The additional jobs should come with the new development on the site that is set to break ground in September 2020. The developer has maintained existing employment on the site since the acquisition in 2015 but did not have its vertical development partner in place and did not receive tax credits until 3Q 2019.

The other proposed amendments actually speak to the evolution of the project, which has contributed in part to the delay in job creation: the approach to pursue a land lease instead of a sale of the property, and the ability to allow subordinations. Projects of this scope and complexity do frequently undergo shifts in the developers' approach to best bring the project to fruition with the intended community benefits. As is often the case, the city is a gap funder -- i.e., virtually never the lead or largest lender in the capital stack --and thus our position typically accommodates the overall direction that the developer takes to accomplish their vision.

Land leases typically include an affordability preservation of 99 years, and the existing contract has a 60-year affordability.

**Location (if applicable):**

**WBE/MBE/DBE goals that were applied, if applicable (construction, design, Airport concession contracts):**

**Are WBE/MBE/DBE goals met (if applicable)?**

**Is the contract new/a renewal/extension or amendment?**

**Was this contractor selected by competitive process or sole source?**

**For New contracts**

**Term of initial contract:**

**Options for Renewal:**

How many renewals (i.e. up to 2 renewals)?

Term of any renewals (i.e. 1 year each):

**Cost of initial contract term:**

**Cost of any renewals:**

**Total contract value council is approving if all renewals exercised:**

**For Amendments/Renewals Extensions:**

**Is this a change to cost/pricing; length of term; terms unrelated to time or price (List all that apply)?**

***If length changing***

**What was the length of the term of the original contract?**

June 1, 2015 - April 1, 2020

**What is the length of the extension/renewal?**

5 years

**What is the revised total term of the contract?**

10 years from date of Promissory Note

***If cost changing***

**What was the original value of the entire contract prior to this proposed change?**

**What is the value of the proposed change?**

**What is the new/revised total value including change?**

***If terms changing***

**Describe the change and the reason for it (i.e. compliance with state law, different way of doing business etc.)**