

## Regular Council Meeting

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January 30, 2025

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# FRESNO CITY COUNCIL



## Supplement Packet

### ITEM(S)

#### 2-N (ID 25-122)

Approve a Second Amendment to the Disposition and Development Agreement between Metro Hospitality Services, Inc., and City of Fresno to extend the construction schedule for the Courtyard by Marriott Hotel in Downtown Fresno located at the northeast corner of Inyo and M Street (District 3)

**Contents of Supplement:** Staff Report and 2nd Amendment to the Disposition and Development Agreement with Metro Hospitality

#### **Supplemental Information:**

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

#### **Americans with Disabilities Act (ADA):**

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

## REPORT TO THE CITY COUNCIL

**FROM:** GEORGEANNE A. WHITE, City Manager  
Office of the Mayor & City Manager

**THROUGH:** JENNIFER K. CLARK, Director  
Planning and Development Department

**BY:** LUPE PEREZ, Project Liaison, Downtown  
Planning and Development

### SUBJECT

#### ..Title

Approve a Second Amendment to the Disposition and Development Agreement between Metro Hospitality Services, Inc., and City of Fresno to extend the construction schedule for the Courtyard by Marriott Hotel in Downtown Fresno located at the northeast corner of Inyo and M Street (District 3)

#### ..Body

### RECOMMENDATION

Staff recommends Council consider approval of a Second Amendment to the Disposition and Development Agreement (DDA) between Metro Hospitality Services, Inc. (Developer) and City of Fresno (City) to extend certain performance deadlines. The newly proposed Completion of Construction deadline is September 30, 2025, and the Certificate of Completion deadline is December 31, 2025. Staff recommends authorizing the City Manager to administratively extend the performance deadlines, upon a determination of good cause, for up to 180 days without further Council approval.

### EXECUTIVE SUMMARY

The City owned a parcel of land at the northeast corner of Inyo and M Streets in downtown Fresno abutting the Convention Center. In 2017, the Developer submitted a Letter of Interest (LOI) to develop a hotel on the site. Subsequently, the Developer and the City agreed to a DDA on December 18, 2017, to develop a 200-room hotel branded as either a Hilton or Marriott.

On March 14, 2022, a First Amendment to the DDA extended certain deadlines in the performance schedule and reduced the 200-room hotel to reflect a 144-room hotel, branded as a Courtyard by Marriott. This extension was granted due to residual supply chain disruptions stemming from the pandemic. The First Amendment extended Completion of Construction to December 31, 2024, and Certificate of Completion to March 31, 2025. Generally, the project includes the construction of a 144-room hotel with guest rooms on the 2nd to 5th floors and construction of a swimming pool, fitness center, meeting rooms, lounge, bar/bistro, and back of house on the 1st floor.

On January 10, 2025, the Developer submitted a request for a one-year extension of the DDA due to significant construction delays due to unforeseen weather conditions as described in their request (attached). The Second Amendment proposes extending the deadline for Completion of Construction to September 30, 2025, the Certificate of Completion to December 31, 2025, and authorizes the City Manager to administratively extend the performance deadlines, upon determination of good cause, for up to 180 days without further Council approval.

## **BACKGROUND**

For more than 25 years, the idea of a new hotel has been considered to meet the need for accommodations for conventions, events, and visitors to the city and downtown area. The planned hotel will be located on land owned by the City that abuts the Convention Center and is across from the Fresno Sports and Entertainment facilities, which include the Saroyan Theater, Valdez Hall, and Selland Arena.

The City and Developer signed a DDA on December 18, 2017, to build a downtown hotel branded as either Hilton or Marriott on this site. The First Amendment extended the Developer's performance schedule and reduced the number of rooms from 200 to 144.

The Developer has requested an extension of the performance schedule due to construction schedule delays resulting from unforeseen and severe wet weather conditions during 2022 and 2023, and supply chain disruptions. The City of Fresno experienced record-breaking rainfall from late 2022 through early 2023, leading to widespread flooding and significant disruptions at the construction site. This continuous wet weather made it difficult to perform essential tasks like excavation, foundation work, and pouring concrete. In December 2023, another period of substantial rainfall further delayed construction activities, affecting site access, supply chain materials and equipment deliveries.

Construction of the hotel is making steady progress. The building's exterior is now ready for lath and plaster, the switchgear and transformer were installed, and the project is scheduled with PG&E to energize the building, enabling interior work to begin. The approval of this extension will allow the Developer to manage the weather-related construction delays and uphold construction quality and safety standards to successfully complete the hotel project.

## **ENVIRONMENTAL FINDINGS**

This amendment is not a project subject to CEQA.

## **LOCAL PREFERENCE**

Local preference is not applicable.

## **FISCAL IMPACT**

There is no fiscal impact.

Attachments:

2<sup>nd</sup> Amendment to the Disposition and Development Agreement with Metro Hospitality

**RECORDING REQUESTED BY:**

City of Fresno  
No Fee-Gov't. Code Sections  
6103 and 27383

**WHEN RECORDED, MAIL TO:**

City of Fresno  
2600 Fresno Street  
Fresno, CA 93721  
Attention: City Manager

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**SECOND AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT**

by and between

CITY OF FRESNO,  
a municipal corporation

and

METRO HOSPITALITY SERVICES, INC.

M and Inyo Streets  
Courtyard By Marriot Downtown Fresno  
Fresno, California 93721

## **SECOND AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT**

THIS SECOND AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT (Second Amendment) is entered as of \_\_\_\_\_, 2025 (Effective Date), between the CITY OF FRESNO, a municipal corporation, (City) and METRO HOSPITALITY SERVICES, INC. (Developer).

### RECITALS

A. WHEREAS, the parties entered into a Disposition and Development Agreement (the Agreement) effective December 18, 2017, and recorded on December 21, 2017, as Document Number 2017-0164954 in the Office of the Fresno County Recorder; and

B. WHEREAS, the Agreement set forth terms and conditions for Developer to purchase the Property from the City and develop it privately as a Hilton or Marriott multi-story hotel with 200 rooms; and

C. WHEREAS, the parties entered into a First Amendment to the Agreement (First Amendment) to extend certain deadlines in the performance schedule and reduce the 200-room hotel to reflect a 144-room hotel on March 14, 2022, and recorded on June 3, 2022, as Document Number 2022-0074161 in the Office of the Fresno County Recorder; and

D. WHEREAS, the parties wish to amend the terms of the Agreement to further extend deadlines in the performance schedule due to significant construction delays due to unforeseen weather conditions, and supply chain delivery disruption.

NOW, THEREFORE, BE IT RESOLVED, that the parties hereby amend the terms of the Agreement as follows:

1. The Performance Schedule (Revised Exhibit "C" attached to the First Amendment) is hereby deleted in its entirety and replaced with the "Revised Exhibit "C" – Second Amendment" attached hereto.

2. The City Manager is authorized to administratively extend the deadlines contained in the Performance Schedule for up to 180 days upon a determination of good cause.

3. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in the Agreement.

4. Except as expressly set forth herein, the terms and conditions of the Agreement shall remain in full force and effect.

5. In the event of a conflict between this Second Amendment and the Agreement, the terms of this Second Amendment shall control.

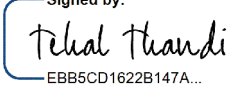
[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, City and Developer have signed this Amendment effective as of the date first above written.

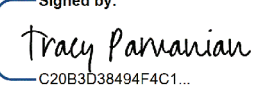
CITY OF FRESNO,  
a municipal corporation

METRO HOSPITALITY SERVICES, INC.

By: \_\_\_\_\_  
Georgeanne A. White,  
City Manager  
(Attach notary certificate of acknowledgment)

Signed by:  
By:   
EBB5CD1622B147A...  
Tehal Thandi,  
President and Secretary  
(Attach notary certificate of acknowledgment)

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

Signed by:  
By:   
C20B3D38494F4C1... 1/27/2025  
Tracy N. Parvanian Date  
Assistant City Attorney

ATTEST:  
TODD STERMER, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy

Attachment:  
Revised Exhibit "C" – Second Amendment – Performance Schedule

**REVISED EXHIBIT “C” – SECOND AMENDMENT**  
**Performance Schedule effective January 30, 2025**

<u>Items Completed</u>	<u>Time for Performance</u>	<u>Completion Date</u>
City of Fresno City Council consideration of Disposition and Development Agreement (DDA)		Completed
Execution of DDA	Within fifteen days after approval of DDA by City Council and receipt and approval of insurance certificates and receipt of executed documents from Developer.	Completed
Escrow Opens	Within three days following the effective date of the DDA	
Submission of Building Plans for Planning and Building Review		Completed
Escrow Closes	Within thirty days of approval of all land use and other entitlements, permits, and approvals that City or any other governmental agency with jurisdiction over the Project requires for construction of the Project.	Completed
Commencement of Construction of Developer's Improvements. Within thirty days after receipt of building permits by the Developer, construction shall commence on the improvements to be constructed on the Project Site.		Completed
Substantial Completion of Construction of Developer's Improvements. The Developer shall substantially complete construction of the improvements to be constructed on the Project Site.		September 30, 2025
Issuance – Certificate of Completion. City shall furnish the Developer with a Certificate of Completion on the Project.	Promptly after completion of all construction and upon written request thereof by the Developer.	December 31, 2025