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Agenda Date: 11/19/2020  
Council Meeting

2020 NOV 16 P 10:51

CITY OF FRESNO  
CITY CLERK'S OFFICE

# FRESNO CITY COUNCIL



## Information Packet

### ITEM(S)

#### **File ID 20-001582 (1-W)**

APPROVE - Second Amendment to the Exclusive Negotiation Agreement by and between the City of Fresno and Tutelian & Company, Inc.

#### **Contents of Supplement: Agreement.**

#### **Item(s)**

##### **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.

**SECOND AMENDMENT TO  
EXCLUSIVE NEGOTIATION AGREEMENT**

THIS SECOND AMENDMENT TO EXCLUSIVE NEGOTIATION AGREEMENT (Second Amendment) is entered into this \_\_\_ day of \_\_\_\_\_, 2020, by and between the CITY OF FRESNO, a municipal corporation (City) and TUTELIAN & COMPANY, INC., a California corporation (Developer) on the terms and conditions set forth below.

**RECITALS**

A. The City and the Developer have entered into that certain Exclusive Negotiation Agreement (ENA) dated December 14, 2018, which provided for a negotiation period of 270 days was administratively extended by the City Manager for an additional 180 days by letter dated September 6, 2019.

B. The parties entered into a First Amendment to Exclusive Negotiation Agreement (First Amendment) dated March 6, 2020, extending the Negotiation Period to December 6, 2020, and adding certain conditions.

C. During the Negotiation Period, the Developer diligently made good faith efforts to timely complete all its obligations.

D. The City and the Developer desire to further extend the Negotiation Period in order to continue negotiations.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

Section 1. Extension of Negotiation Period

The Negotiation Period, as defined in paragraph 3 of the ENA, is hereby extended to March 6, 2021, with no further extension by the City Manager.

Section 2. Effect of Second Amendment.

The ENA and First Amendment shall remain in full force and effect except as amended hereby or inconsistent herewith.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed by their respective representatives thereunto duly authorized as of the date first written above.

CITY OF FRESNO,  
A California municipal corporation

By: \_\_\_\_\_  
Wilma Quan, City Manager

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By: Laurie Avedisian-Favini Date 11/16/2020  
Assistant City Attorney

Tutelian and Company, Inc.,  
a California corporation

By: Cliff Tutelian  
Cliff Tutelian, Its President and  
Secretary

ATTEST:  
YVONNE SPENCE, MMC  
City Clerk

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