



Legislation Details (With Text)

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Title: APPROVE - First Amendment to the Exclusive Negotiation Agreement by and between the City of Fresno and Tutelian & Company, Inc.
Sponsors: Office of Mayor & City Manager
Indexes:
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Attachments: 1. Exhibit A Map, 2. First Amendment to ENA

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2/27/2020	1	City Council	continued	

REPORT TO THE CITY COUNCIL

February 27, 2020

FROM: WILMA QUAN, City Manager
Office of Mayor and City Manager's Office

ALDI DODDS, Deputy City Manager
Office of Mayor and City Manager's Office

SUBJECT

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

RECOMMENDATION

Staff recommends the City Council approve the First Amendment to the Exclusive Negotiation Agreement (ENA) by and between the City of Fresno (City) and Tutelian & Company, Inc. (Developer) for the development of north Fulton Street.

EXECUTIVE SUMMARY

On December 14, 2018, the City and Developer entered into an ENA granting Developer exclusive rights to negotiate terms for a subsequent Disposition and Development Agreement (DDA) for the development of proposed Project. In September 2019, City Manager, Wilma Quan, granted the

Developer a 180-day extension to the Negotiation Period of the ENA. The original Negotiation Period of 270 days was extended by 180 days to March 8, 2020. As stated in the ENA, any future extensions for performance would require City Council approval. As such, the first amendment to the ENA extending the Negotiation Period 12 months, to March 8, 2021, requires City Council approval.

BACKGROUND

As stated in the ENA, the Developer shall, before expiration of the Negotiation Period, prepare and deliver a status report to the City Council demonstrating the City's satisfaction that the Developer is in material compliance with the ENA, and that the Developer has made and is then making good faith efforts to timely complete all its obligations.

In 2019, the Developer engaged the Fresno Housing Authority (Housing Authority) to make its lands available for the intended Phase II of the proposed Project. Despite that substantial effort and several months of negotiating, the Housing Authority decided not to participate. That recent decision by the Housing Authority has necessitated a reduced scaled Project. Now that the decision has been confirmed, the Developer has been able to focus on finalizing the project description on the smaller scaled Project scope. The Developer has since made significant effort to ensure timely completion of its obligations. These efforts are demonstrated through the following:

- Completed utility drawings and architectural drawings that confirm the overall development plan. This entailed an investment of approximately \$119,000;
- Engaged CVS in fruitful negotiations on the terms and conditions of their relocation;
- Proposed a Letter of Interest (LOI) to CVS addressing material elements they detailed in an Initial Deal Proposal;
- Identified the construction phasing necessary to support the CVS relocation.

The original ENA contained property defined as the North Fulton District, including the Tuolumne Reversal, Parking Lot 2 and/or other lands owned by the City, or subsequently acquired by the City. The Project scope has since been scaled down to remove any elements of the Housing Authority lands, and is defined as Parking Lot 2 and certain real property generally bounded by Tuolumne Street, Van Ness Avenue, Merced Street and Fulton Street.

City Council granting the 12-month extension to the ENA would allow the Developer to execute the LOI with CVS, finalize the project scope, submit a financing plan to the City and negotiate the proposed terms of the DDA. Before the expiration of the ENA on March 8, 2021, a DDA will be presented to Council for consideration and approval.

ENVIRONMENTAL FINDINGS

This is not a project for the purposes of CEQA.

LOCAL PREFERENCE

Approval of this resolution is not subject to local preference.

FISCAL IMPACT

There is no fiscal impact to the City.

Attachment:
First Amendment to ENA
Exhibit A - Map