



Agenda Report

Fullerton City Council

MEETING DATE: SEPTEMBER 15, 2020

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: KENNETH A. DOMER, CITY MANAGER

PREPARED BY: MATT FOULKES, DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

SUBJECT: EXTENSION TO EXCLUSIVE NEGOTIATION AGREEMENT BY AND BETWEEN THE CITY OF FULLERTON AND ALLEN CHRISTOPHER CORPORATION DBA PARKWEST GENERAL CONTRACTORS AND WESTPARK INVESTMENTS, LLC ON PROPERTY LOCATED AT THE SOUTHEAST CORNER OF EAST SANTA FE AVENUE AND SOUTH POMONA AVENUE (APN 033-030-18)

SUMMARY

Consideration of an extension of an Exclusive Negotiation Agreement by and between the City of Fullerton and Allen Christopher Corporation dba Parkwest General Contractors and Westpark Investments, LLC (together, "Developer") to extend the period of exclusive negotiations for development of an upscale boutique hotel on a portion of an approximately 2.05-acre parcel of land owned by the City. The property is currently a surface parking lot located at the southeast corner of East Santa Fe Avenue and South Pomona Avenue and is part of the Fullerton Transportation Center Specific Plan (FTCSP) area. The extension is requested in response to unanticipated delays caused by the COVID-19 pandemic.

RECOMMENDATION

Approve 12-month extension until December 1, 2021 to Exclusive Negotiation Agreement (ENA) by and between City of Fullerton and Allen Christopher Corporation, DBA Parkwest General Contractors and Westpark Investments, LLC on property located at southeast corner of East Santa Fe Avenue and South Pomona Avenue (APN 033-030-18) and authorize City Manager to execute corresponding 2nd Amendment to ENA in a form approved by the City Attorney.

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statements:

- Infrastructure and City Assets
- Fiscal and Organizational Stability.

FISCAL IMPACT

Pursuant to the ENA, the City has no obligation to pay or reimburse the Developer for any costs or expenses incurred as a result of the ENA, the preparation and submittal of the development plan, the negotiation of a Disposition and Development Agreement or other agreement, the retention of any consultant, the development of the property or any other matter concerning the property, except as otherwise agreed to by the City in writing prior to costs or expenses being incurred. The City has incurred legal fees for the preparation of the ENA as well as professional service fees for the third-party review of Developer's proposal.

DISCUSSION

On December 1, 2018, the City entered into an ENA with the Developer. The ENA established a six-month initial negotiation period commencing on December 1, 2018 and identified five milestones that must be satisfied by the Developer no later than May 31, 2019 in order for the ENA to extend another six months. The Developer satisfied all of these milestones within the initial negotiation period and was automatically extended for an additional six months, ending December 1, 2019. During this second six-month period, five additional milestones were required.

On November 19, 2019, the City Council approved a 12-month extension to the Total Negotiation Period and associated milestones to provide additional time to complete a series of tasks in succession:

1. Third-party technical review of the project's financial aspects and draft terms and conditions for the development of the property.
2. Negotiations between the Developer and the City Council including the drafting of the DDA.
3. Equity and/or loan commitments and letters of interest.
4. Amendments to the FTCSP.
5. CEQA analysis.
6. Public hearings before the Planning Commission and City Council.

The extension to the ENA is requested by the City and Developer as a result of additional time required to complete components of the analysis of the project which were beyond the Developer's and City's control. The ENA as amended by the First Amendment is set to expire on December 1, 2020. The COVID-19 pandemic has caused unexpected market uncertainty. While the Developer is still interested in proceeding with the project and discussions are ongoing on DDA terms and conditions, progress on items 3 through 6 in the list above have been delayed. It is also important to note that any lapse in the ENA period would result in the property becoming subject to the requirements pursuant to the Surplus Land Act which would result in a substantial

change to the development outcome of this property that is inconsistent with the current proposed project.

Attachments:

- Attachment 1 – Letter from Parkwest General Contractors