



Agenda Report

19-1348

Agenda Date: 11/19/2019

REPORT TO COUNCIL

SUBJECT

Action on Second Amendment to the Exclusive Negotiations Agreement with Republic Metropolitan LLC for the site located at 500 Benton Street [APN: 230-08-078]

BACKGROUND

This item was initially scheduled for City Council action at the November 12, 2019 Council and Authorities Concurrent Meeting. The City Council continued the item at the Developer's request in order to change the project description in the ENA from co-living component to workforce/student apartment component.

On July 16, 2019, Council approved the Second Amendment to the Exclusive Negotiations Agreement with Republic Metropolitan LLC ("Developer") for the site located at 500 Benton Street [APN: 230-08-078 and -061]. The ENA is a three -party agreement with the Developer, City, and by the Santa Clara Valley Transportation Authority ("VTA"). The City owns 1.73 acres of the development site and VTA owns 0.7 acres of the development site.

The Second Amendment as presented by staff extended the term of the Exclusive Negotiations Agreement (ENA). The action authorized the City Manager to execute the ENA pending approval by VTA.

On August 1, 2019, the VTA Board approved the ENA extension; however, the Board's approval also requested that staff incorporate milestones to the extension to ensure that the Developer demonstrates progress on two key issues: a term sheet within 90 days and progress towards either a ground lease option or development agreement within 180 days.

DISCUSSION

The requested VTA Board modifications were sufficiently significant to require additional Council consideration on the revised/updated Second Amendment to the Exclusive Negotiations Agreement. The Second Amendment includes the following changes:

- **Negotiating Period.** The negotiating period under this Agreement shall terminate at 11:59 p.m. on August 5, 2020.
- **Negotiation Deposit:** The Developer must pay an additional Twenty-Five Thousand Dollars (\$25,000) to pay for legal expenses and third-party consultants.
- **Revised Term Sheet:** The Developer must submit a new term sheet to VTA and City within 90 days after the execution of the Second Amendment, which will: (i) present all economic terms of any proposed LOA or DDA between the parties; and (ii) respond to all written requests for

information presented to Developer by VTA and/or the City.

- **DDA or LOA:** The City, VTA, and Developer have determined to pursue either a Development Agreement (“DDA”), or a Lease Option Agreement (“LOA”) setting the terms and conditions whereby Developer may enter into an agreement with VTA and City for a long term ground lease on the Property to construct a project consisting of an affordable housing component and a market rate workforce/student apartment component.

Parties will work in good faith and use best efforts to develop mutually acceptable terms and conditions of a DDA or LOA by March 1, 2020.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is no fiscal impact associated with this item other than administrative time and expense.

COORDINATION

This report was coordinated with VTA and the City Attorney’s Office

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Approve and Authorize the City Manager to Execute the Second Amendment to the Exclusive Negotiations Agreement with Republic Metropolitan LLC incorporating terms as requested by VTA for the site located at 500 Benton Street [APN: 230-08-061].

Reviewed by: Ruth Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Second Amendment to the Exclusive Negotiations Agreement with Republic Metropolitan LLC (Updated)