

IF
5/23/11

CITY OF FRESNO
City Clerk's Office (Original)

AMENDMENT NO. 1 TO
EXCLUSIVE NEGOTIATION AGREEMENT
**1.06 +/- Acres of Land at Tulare Avenue and between
"O" Street and "N" Street, City of Fresno, California**
APN: 466-094-09T (T-Lot)

THIS AMENDMENT NO. 1 TO EXCLUSIVE NEGOTIATION AGREEMENT ("Amendment") is made and entered into on June 23, 2011, by and between the CITY OF FRESNO, a municipal corporation, ("CITY"), and CHILDREN & FAMILIES COMMISSION OF FRESNO COUNTY, an independent governmental agency formed pursuant to California Health & Safety Code section 130100 *et seq.* ("FIRST 5").

RECITALS

WHEREAS, CITY and FIRST 5 entered into that Exclusive Negotiation Agreement effective June 23, 2010 ("Agreement") providing for a twelve (12) month exclusive negotiation period regarding the purchase of real property by FIRST 5;

WHEREAS, the Agreement will terminate June 23, 2011, unless sooner terminated pursuant to the terms of the Agreement; and

WHEREAS, the CITY and FIRST 5 desire to extend the Agreement for an additional twelve (12) month period.

NOW, THEREFORE, in consideration of the foregoing, which are hereby incorporated by this reference, and for other good and valuable consideration hereby acknowledged, the parties mutually agree as follows:

1. Section 1 of the Agreement is hereby amended to read as follows:

CITY and FIRST 5 shall negotiate exclusively for 24 months (730 calendar days) from the Effective Date (the "Negotiation Period"), unless negotiations are sooner terminated as provided herein. The parties shall devote such personnel, consultants and resources as may be reasonably necessary to complete negotiations within that time limit.

2. All dates referenced in the Performance Schedule, attached to the Agreement as Exhibit B, shall also be extended by twelve (12) months.
3. All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.
4. In all other regards, the Agreement shall remain in full force and effect.

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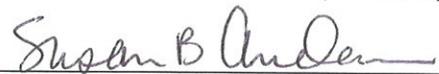
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed, the day and year first-above written.

CITY OF FRESNO,
a municipal corporation



BRUCE RUDD
Assistant City Manager

CHILDREN & FAMILIES COMMISSION
OF FRESNO COUNTY (FIRST 5):



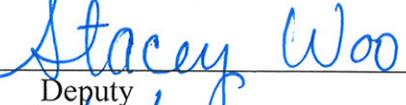
SUSAN B. ANDERSON
First 5 Commission Chair



KENDRA ROGERS
First 5 Executive Director

ATTEST:

REBECCA E. KLISCH
City Clerk

By: 

Deputy

Date: 7/11/11

APPROVED AS TO FORM:

KENNETH J. PRICE
Commission Counsel

By: 

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By: 

Deputy

Addresses:

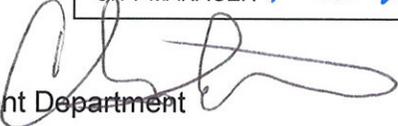
CITY:
City of Fresno
Attention: Elliott Balch
2600 Fresno Street
Fresno, CA 93721
Phone: (559) 621-8366
FAX: (559) 457-1504
E-MAIL: elliott.balch@fresno.gov

FIRST 5:
Children & Families Commission
Attention: Kendra Rogers
[Street Address]
Fresno, CA [Zip]
Phone: (559) 241-6515
FAX: (559) 241-6510
E-MAIL: KRogers@first5fresno.org

AGENDA ITEM NO. IF
COUNCIL MEETING 5/26/2011
APPROVED BY _____

DEPARTMENT DIRECTOR _____
CITY MANAGER Mark Scott

May 26, 2011

FROM: CRAIG SCHARTON, Assistant Director
Development and Resource Management Department 

BY: ELLIOTT BALCH, Downtown Revitalization Manager
Development and Resource Management Department ED

SUBJECT: APPROVE 12-MONTH EXTENSION TO EXCLUSIVE NEGOTIATION AGREEMENT BETWEEN THE CITY OF FRESNO AND CHILDREN & FAMILIES COMMISSION OF FRESNO COUNTY ("FIRST 5") FOR THE POTENTIAL SALE OF A PARCEL OF CITY-OWNED REAL PROPERTY IN DOWNTOWN FRESNO (APN 466-094-09T) TO FIRST 5

RECOMMENDATION

Staff recommends that the Council approve the attached amendment to the Exclusive Negotiation Agreement (Exhibit A) between the City of Fresno and Children & Families Commission of Fresno County ("First 5"), originally approved by the Council on June 17, 2010. The amendment extends the 12-month period of the original Agreement by an additional 12 months.

Presented to City Council
Date 5/26/11
Disposition Rec. approved

EXECUTIVE SUMMARY

First 5 Fresno County is proposing to develop a child care facility, Family Learning Center, and administrative offices at the present site of City of Fresno Parking Lot "T" in Downtown Fresno.

The Exclusive Negotiation Agreement (ENA) adopted by the Council on June 17, 2010, provided for a 12-month period in which to agree to an appropriate design, obtain development entitlements, and determine a price and other terms for the sale of the City-owned land to First 5. The final agreement for the purchase of the property would be subject to approval by the City Council and the First 5 Commission.

For various reasons First 5 has requested a one-year extension to the original ENA. Staff recommends approval of the attached amendment providing this extension.

BACKGROUND

First 5 Fresno County intends to develop a multi-use facility on the City of Fresno's "T Lot" on Tulare Street between N and O Streets. The approximately 48,000 sq. ft. site would accommodate a two story building with a floor area of between 35,000 and 40,000 sq. ft. First 5 will utilize green building practices. The remaining space will be dedicated to an outdoor play area, and parking.

The goal of the building is to help strengthen families with young children and our community's ability to more effectively serve them. There are several components to the building. It would be utilized as a child care

Exclusive Negotiation Agreement with First 5 Fresno County
June 17, 2010

center and Family Learning Center. It would also serve as First 5 Fresno County administrative offices. The building would have approximately 40-50 employees working at any given time.

The Family Learning Center, adjacent to the child care center, would provide instructional workshops on developmentally appropriate play, socialization groups, health and nutrition and the benefits of using local farmers produce to provide simple and healthy meals for one's family. The child care center can have up to 90 children and is anticipated to employ approximately 20 people. Additionally, this project will convert approximately 9,000-12,000 square feet into an outside play area for the child care facility and community gardens.

Currently the "T Lot" provides parking primarily for City employees who work in the Police Department complex along N Street. The Lot's 125 stalls are used by 208 permit-holding permanent and temporary employees, spread out over two shifts. Other parking arrangements would be offered to these employees if the site is developed.

First 5 is requesting an twelve-month extension to the original twelve-month ENA due to unforeseen delays in finalizing plans and designs for the project, as well as the uncertainty created by legislation signed by the Governor in March which takes \$1 billion in funding for First 5 programs statewide, (\$16.7 million from Fresno County). First 5 has filed suit against the State to stop the taking of funds, and has told City staff that the proposed T Lot project will be in jeopardy if the suit is unsuccessful.

A twelve-month extension to the ENA will allow planning and design work for the project to continue while the legal and budgetary issues that affect the project are resolved.

FISCAL IMPACT

The fiscal impact of the transaction will be determined by the results of the proposed Exclusive Negotiation Period. Relevant factors will include the final sale price, the cost of installing a sewer line to serve the property, and costs for entitlement such as environmental studies and documents, City impact fees, and other applicable fees. The ENA commits the City to cover the cost of the sewer line and half (up to \$25,000) of the entitlement costs. Surface parking continues as normal at the site during the ENA period, so beyond the terms of the ENA itself, there is no fiscal impact of the proposed twelve-month extension.

Attachments:

Exhibit A — Exclusive Negotiation Agreement between the City of Fresno and Children & Families Commission of Fresno County

Exhibit B — Amendment No. 1 to Exclusive Negotiation Agreement between the City of Fresno and Children & Families Commission of Fresno County