



# City of Rialto

## Legislation Text

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For Economic Development Committee Meeting [January 30, 2019]

TO: Economic Development Committee Members

APPROVAL: Sean Grayson, Interim City Administrator

FROM: Robb R. Steel, ACA/Development Services Director

Request Economic Development Committee Recommend to the City Council to Approve Amendment #3 to Exclusive Right to Negotiate Agreement with NewMark Merrill for the Development of Approximately 15.5 Acres of Property located west of Riverside Avenue and north of Valley Boulevard.

### **BACKGROUND:**

On June 27, 2017, the City Council approved an Exclusive Right to Negotiate Agreement (ERN) with NewMark Merrill ("Developer") for the development of approximately 15.5 Acres ("Site") of property located west of Riverside Avenue and north of Valley Boulevard. The City selected the Developer through a "Request for Proposals/Qualifications" process.

On January 9, 2018, the City Council approved ERN Amendment #1 extending the termination date to July 31, 2018 and on July 10, 2018 approved ERN Amendment #2 extending the termination date to January 31, 2019. See **Exhibit A** for ERN.

The Successor Agency owns seven (7) parcels totaling 15.5 acres ("SA Parcel") between the former Wal-Mart property and the new Wal-Mart Supercenter and Rialto Marketplace, which the City proposes to develop a retail center. See **Exhibit B** for a site map.

The ERN allows the Developer to prepare proposals, conduct feasibility assessments, and market the Site to potential users. The ERN confers no development rights, but is simply a good faith statement of the party's intention to negotiate a disposition, development agreement (DDA) on terms acceptable to both parties.

On January 30, 2019, the Developer will present an update of its activities during the latest extension period and whether sufficient tenant interest has been captured to warrant formal negotiations of the disposition and development agreement.

### **ANALYSIS/DISCUSSION:**

The ERN expires on January 30, 2019, if the parties have not completed a DDA for consideration by the City Council. If warranted, the City Council can extend the ERN period.

Since July 2017, the Developer and the City have undertaken several tasks to initiate the potential retail development. The Developer continues to market the site to potential retailers and

entertainment uses. The Developer and staff request an extension to August 30, 2019, to allow Developer to obtain retail commitments and submit updated site plans and development pro-formas in order to prepare the DDA for City Council consideration (Amendment #3).

The ERN directed the following primary tasks for the City and Developer with the completed, ongoing, or future activity noted in bold:

#### City/SA

1. Complete title work and ALTA surveys to determine the location of all easements and encroachments upon the Site. **Staff completed title work and obtained ALTA survey. The ALTA survey indicates an active sewer line situated in the center of the Site. The sewer line requires relocation (or accommodation) to allow future development. The City will prepare relocation cost estimates.**
2. Complete second year protocol survey for Delhi Flower Loving Sand Fly (DFLSF) to determine presence of protected species. **In September 2017, Ecological Sciences (consultant retained by the City) completed the second year protocol survey and did not discover presence of DFLSF. The City intends to engage a consultant to secure a final release from the Fish & Wildlife Service so that annual surveys will no longer be necessary.**
3. Complete appraisal to determine land value for purposes of acquisition from SA and disposition to Developer. **During the Amendment #3 extension, staff will retain a consultant to appraise the Site as requested by the Developer.**

#### Developer

1. Conduct community meeting(s) to receive public input for use of the SA Parcel. **On January 18, 2018, the Developer conducted a community workshop at the Grace Vargas Senior Center.**
2. Identify potential retail, restaurant, and/or entertainment users for the SA Parcel based on community/Council input and market conditions. **The Developer continues to market the site to retailers. The Developer requests to extend the ERN period to continue marketing efforts and secure retailer commitments.**
3. Prepare site plans, preliminary engineering, and financial pro-forma to determine the economic feasibility of development. **The Developer submitted preliminary site plans (Exhibit C) and preliminary financial pro-forma.**
4. Submit for preliminary development review to establish expected conditions of approval. **Once the Developer obtains retailer commitments and modifies the site plan, if needed, the Developer proposes submitting entitlement application(s) for staff review.**
5. Market the Site to potential users approved by the City. **The Developer continues to market the Site to potential retailers with input from staff and the Economic Development Committee.**

6. The Developer makes a Good Faith Deposit of \$15,000 to the City (or greater as City and Developer mutually agree for additional costs) to insure the Developer proceeds diligently and paying for legal and consultant costs incurred by the City during negotiations. **In August 2017, the Developer paid Good Faith Deposit of \$15,000.**

**RECOMMENDATION:**

Staff recommends that the Economic Development Committee recommend the City Council approve Amendment #3 to the Exclusive Right to Negotiation Agreement (**Exhibit D**) by and between the City of Rialto and NewMark Merrill extending the termination date to August 30, 2019.