

**RESOLUTION NO. 3604-20**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
APPROVING THE FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATING  
AGREEMENT WITH THE ROBERT GREEN COMPANY FOR DEVELOPMENT OF  
THE CIVIC CENTER PROPERTIES AND AUTHORIZING THE TOWN MANAGER  
TO EXECUTE THE EXTENSION ON BEHALF OF THE TOWN**

**WHEREAS**, the Town of Windsor desires to facilitate the development and redevelopment of six parcels of real property located north of the Town Green, totaling approximately 11.43 acres, some of which real property is owned by the Town and other of which real property is owned by third parties (the Civic Center Properties); and

**WHEREAS**, on July 18, 2018, the Town Council selected The Robert Green Company as the preferred developer for the development of the Civic Center Properties and directed staff to prepare an Exclusive Negotiating Agreement (ENA) for execution by the Town and The Robert Green Company (the Developer); and

**WHEREAS**, the Town and the Developer prepared an ENA that provided for the Town and the Developer to analyze the Development Alternatives, for the Town to select the Preferred Development Alternative, and for the Town and the Developer to negotiate toward a mutually acceptable Disposition and Development Agreement; and

**WHEREAS**, on April 17, 2019, the Town Council approved the ENA prepared by the Town and the Developer, which was executed on June 6, 2019; and

**WHEREAS**, on February 12, 2020, Phase I of the ENA was completed with the presentation to Town Council of three Development Alternatives and a preliminary economic feasibility analysis prepared in accordance with the requirements of the ENA; and

**WHEREAS**, on February 12, 2020, the Town Council selected a Preferred Development Alternative and authorized the Town Manager to proceed with Phase II of the ENA with the Developer upon a determination by the Windsor Unified School District of its interest in participating in the project; and

**WHEREAS**, in March, 2020, the County of Sonoma and Governor of California issued legally binding orders for all residents to stay home and all but essential businesses to close; and

**WHEREAS**, on May 5, 2020, the Windsor Unified School District affirmed a good-faith commitment and interest in pursuing the Civic Center project in partnership with the Town; and

**WHEREAS**, the restrictions imposed by the orders of the Governor of California and County of Sonoma prevent the Town and Developer from meeting performance timelines set forth for Phase II of the ENA; and

**WHEREAS**, the Town and the Developer agree that the performance timelines for Phase II of the ENA should be extended by twelve months in the interest of allowing the project to proceed as restrictions imposed by the State and County are lifted; and

**WHEREAS**, the approval of the Exclusive Negotiating Agreement and the actions to be taken thereunder are not subject to environmental review under the California Environmental Quality Act because the Town is not thereby committing itself to or agreeing to undertake any particular project, and retains the absolute sole discretion to determine not to proceed with any project.

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Windsor as follows:

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** The Town Council hereby approves the First Amendment to the Exclusive Negotiating Agreement attached as Exhibit "A."

**Section 3.** The Town Council hereby authorizes and directs the Town Manager to sign the First Amendment to the Exclusive Negotiating Agreement on behalf of the Town.

**Section 4.** The Town Council hereby reaffirms its authorization for the Town Manager (or his designee) to take such actions as are necessary or appropriate to carry out and implement the Town's responsibilities under the Exclusive Negotiating Agreement. Such actions shall include, without limitation, the initiation of negotiations with the owner of the "Telfer Properties," the Windsor Unified School District, the Sonoma County Library, and the Developer for possible acquisition, lease and/or use of real property needed for the development of the Civic Center project.

**PASSED, APPROVED AND ADOPTED** this 3rd day of June, 2020, by the following vote:

<b>AYES:</b>	<b>COUNCILMEMBERS FUDGE, OKREPKIE, VICE MAYOR LEMUS AND MAYOR FOPPOLI</b>
<b>NOES:</b>	<b>COUNCILMEMBER SALMON</b>
<b>ABSTAIN:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>NONE</b>

  
\_\_\_\_\_  
**DOMINIC FOPPOLI, MAYOR**

**ATTEST:**

  
\_\_\_\_\_  
**MARIA DE LA O, TOWN CLERK**

**Attachment:**

- **Exhibit A** - First Amendment to Exclusive Negotiating Agreement

**FIRST AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT**

THIS FIRST AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT (the “Amendment”) is entered into as of June 3, 2020, by and between the TOWN OF WINDSOR, a California municipal corporation (the “Town”), and THE ROBERT GREEN COMPANY, a California corporation (the “Developer”). The Town and Developer (collectively referred to herein as the “Parties”) hereby agree to the terms and provisions set forth below.

**RECITALS**

A. The Town and Developer have entered into an Exclusive Negotiating Agreement, dated as of June 6, 2019 (the “Agreement”), in order to negotiate terms and conditions governing the development and redevelopment of six parcels of real property located north of the Town Green, totaling approximately 11.43 acres (the “Civic Center Property”).

B. In satisfaction of the Parties’ obligations under “Phase I” of the Agreement, the Developer has submitted to the Town certain information and analysis of three “Development Alternatives” for the Civic Center Property, and the Town Council has selected one of those Development Alternatives as the “Preferred Development Alternative” for the Civic Center Property.

C. As a result of certain delays caused by and related to the COVID-19 pandemic, Developer has requested, and the City has agreed, to an extension of time for performance of the obligations required during “Phase II” of the Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. Extensions of Time for Performance.** The following revisions shall be made to the performance times set forth in the Agreement:

a. The date of commencement of the Phase II Period shall be May 5, 2020, the date of the Town’s receipt of a written notice of interest in participation in the Project from the Windsor Unified School District.

b. The date for Developer submission of the “Development Alternative Package” for the Preferred Development Alternative, as set forth in Section 2(a) of the Agreement and the Schedule of Performance, shall be revised to within one year and sixty (60) days from the commencement of the Phase II Period.

c. The date for the CEQA Pre-Application Consultation, as set forth in Section 2(b) of the Agreement, shall be revised to within one year and thirty (30) days from the commencement of the Phase II Period.

d. The date for Developer submission of the "Initial Developer's Deposit," as set forth in Section 5(a) of the Agreement and the Schedule of Performance, shall be revised to within one year and ten (10) days from the commencement of the Phase II Period.

e. The ending date for the Phase II Period, as set forth in Section 2 of the Agreement and the Schedule of Performance, shall be the first to occur of (i) Town's approval of the Proposed Development Terms as provided in Section 2(d) of the Agreement, or (ii) one year and one hundred fifty (150) days from the commencement of the Phase II Period.

**2. No Other Amendments.** Except as amended by this Amendment, the Agreement shall continue unmodified and in full force and effect. This Amendment shall not modify the authority of the City Manager to grant extensions of time as set forth in Sections 2(e) and 3(d) of the Agreement. All terms not separately defined herein shall have the meanings as defined in the Agreement.

**IN WITNESS WHEREOF**, the Town and the Developer have signed this Amendment as of the date set forth above.

**Town:**

TOWN OF WINDSOR, a California  
municipal corporation

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Town Clerk

Approved as to form:

\_\_\_\_\_  
Town Attorney

**Developer:**

THE ROBERT GREEN COMPANY,  
California corporation

By: \_\_\_\_\_  
Robert S. Green, Jr., President