

AGENDA REPORT

Meeting Date:	<u>January 6, 2022</u>	Item Number:	<u>1</u> <i>(Staff Use Only)</i>
Department:	<u>WEDC</u>	Account Code:	<u></u>
Prepared By:	<u>Jason Greiner</u>	Exhibits:	<u>1</u>
Date Prepared:	<u>12/30/21</u>		

Subject

Consider and act upon a Second Amendment to the Purchase and Sale Agreement between the WEDC and Victory Group, LLC.

Recommendation

Motion to approve a Second Amendment to the Purchase and Sale Agreement between the WEDC and Victory Group, LLC for the sale of approximately .29-acre of real property and further authorize the WEDC Board President to execute all documentation necessary to effectuate the transactions.

Discussion

The Board approved the Purchase and Sale Agreement with Victory Group, LLC for the sale of property at 201 Industrial Court on July 21, 2021 and then amended the agreement on October 20, 2021. As the Board will recall, the “Approval Period” (Section 2.06a) in the contract was extended from ninety (90) days to December 15, 2021.

Original Analysis of the Agreement:

- Lot: .2901 acres or approximately 12,637 square feet
- Sales Price: \$20.58/SF or \$260,036
- Feasibility Period: 45 Days after Effective Date
- Approval Period: 90 Days (plus up to two additional 30-day periods at additional fee of \$3,500 ea)
- Closing Date: 30 Days after expiration of Approval Period
- *Effective Date: July 30, 2021*

Victory Group is again requesting to extend the “Approval Period” (Section 2.06a) in the contract from December 15, 2021 to February 9, 2022. Below is a screen shot from the original PSA as well as the proposed amendment language.

Below:

Section 2.06a
First Amendment language

Attached:

Second Amendment

Current PSA:Section 2.06 Approvals.

(a) Seller shall allow Purchaser a period of time expiring ninety (90) days following the Effective Date (the "Approval Period") during which Purchaser shall seek to obtain all "Approvals" (as defined below).

(b) Seller shall cooperate and participate with Purchaser in connection with Purchaser's efforts to obtain the Approvals (as defined below), including without limitation, participation in any required hearings or meetings with governmental officials and in the submittal and execution of any documentation required by governmental authorities.

(c) If Purchaser has not fully obtained the Approvals within the initial Approval Period, then Purchaser may extend the Approval Period for up to two (2) additional periods of thirty (30) days each by, prior to the expiration of the Approval Period (as extended), (i) delivering a written notice of the extension of the Approval Period ("Approval Period Extension Notice") to Seller, and (ii) depositing Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00) (the "Approval Extension Fee") for each extension, which will be non-refundable (except in the event this Agreement is terminated due to a Seller default, casualty or condemnation), but applicable to the Purchase Price at Closing.

(d) If the Approvals cannot be fully obtained by Purchaser prior to the expiration of the Approval Period (as extended), then Purchaser may terminate the Agreement at any time before the expiration of the Approval Period (as extended) by delivering written notice to Seller of Purchaser's termination of the Agreement, in which event, Purchaser shall receive the Earnest Money and Seller shall receive all of the Approval Extension Fees that Purchaser has paid prior to terminating the Agreement.

First Amendment:**AGREEMENT**

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

1. Approval Period. The Approval Period, (as defined in Section 2.06(a) of the Agreement) is hereby extended until 5:00 P.M. Central Daylight Time (CDT) on December 15, 2021.

This amendment will allow adequate time for them to receive City Council approval at one of the three meetings on January 11, 2022, January 25, 2022, or February 8, 2022.