

The City of Barstow

AGENDA MATTER:

Exclusive Negotiating Agreement between the City of Barstow and BarWest, L.L.C.

EXECUTIVE SUMMARY:

On June 2, 2003, The Barstow Redevelopment Agency (Agency) and BarWest, L.L.C. (BarWest) entered into an Exclusive Negotiating Agreement (ENA) regarding an economic development proposal for the Lenwood area. BarWest proposes to develop a first-class, high-quality destination resort, which will include an Indian gaming casino in the City. The ENA provided an opportunity for the Agency and BarWest to negotiate regarding a Municipal Services Agreement (MSA). The ENA expires on March 2, 2004. As of this writing, A MSA has not been signed and submitted to the City.

During the Extended Term, there was great turmoil in state government, which led to the recall of former Governor Davis. Prior to that recall, and for several months after the new Governor took Office, Indian Gaming Compacts were placed on hold. The state has just recently renewed its efforts to develop Compacts between willing Tribes and the State. Because of these delays, which were outside the reasonable control of the developer, staff is recommending that Agency extend the ENA for an additional three months. If a MSA is signed and submitted by the Tribe to the City prior to the end of the Extended Term, it is recommended that the ENA be extended for an additional three months to provide time to obtain the necessary approvals at the federal level.

DISCUSSION:

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RECOMMENDED ACTION:

Approve Extending the Exclusive Negotiating Agreement between the City of Barstow and BarWest, L.L.C. for three additional months with one three month extension with approval of the City Council. Future, direct that the ENA be moved from Agency control to City control and authorize the Mayor to sign the ENA extension. In addition, direct staff to collect \$5,000 from BarWest to reimburse City Staff's expenses.

PROPOSED BY	FUNDS BUDGETED	FUNDS REMAINING	MEETING DATE
Ron Rector <i>RR</i>	N/A	N/A	March 01, 2004
E.D. APPROVAL	AMOUNT REQUIRED	CATEGORY	ITEM NUMBER
F. M. Stewart <i>FMS</i>	N/A	Redevelopment	23

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BarWest, L.L.C. (BarWest) is proposing to develop a first-class, high-quality destination resort, including hotels, restaurants, hospitality services and a class III Indian gaming casino in the City of Barstow. Class III gaming is defined as gaming activities that are generally referred to as house-banked, which include Vegas-style games and video lottery terminals, or slot machines.

BarWest's proposal will help to effectuate the Agency's and City's coordinated effort to maintain, improve and increase the amount of employment, recreation, transportation, and housing opportunities available to the residents of the Project Area and to improve the quality of life for all residents of the city.

It was recognized by all parties that the project would take time to obtain the necessary state and federal approvals. An Exclusive Negotiating Agreement (ENA) was entered into by the Agency and BarWest to allow time to secure these approvals and to allow time for the City and the Los Coyotes Band of Cahuilla and Cupeno Indians (Tribe) to develop a Municipal Services Agreement (MSA). BarWest has met all of the terms of the ENA except the Tribe has not submitted a MSA to the City. The Tribe could not formalize the terms of the MSA until the Governor identified what terms and conditions would be included in new Compacts.

BarWest and the Tribe have been working diligently to secure a state Compact. These efforts were thwarted by the events leading up to the recall of former Governor Davis and the subsequent delays caused by the selection and indoctrination of the Governor's new Indian Gaming Compact negotiating team. The delays caused by the recall of Governor Davis can be considered outside the reasonable control of the Developer, which is authorization for the Agency to extending the ENA (Section 1.2C of ENA). Staff believes that it is reasonable to extend the ENA for an additional three months while the Tribe and the City negotiate a mutually agreeable MSA. Staff also believes that if the Tribe is successful in negotiating a mutually agreeable MSA with the City that the ENA be extended for an additional three months. It is also recommended that the ENA be moved from Agency control to City Council control.