



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Consider Terms of Exclusive Negotiating Agreement (ENA) with The Related Companies of California, LLC for Development of Affordable Housing on City Property Located at 441-499 W. Iowa Avenue (APNs 165-130-74, 165-130-46, 165-130-68, 165-130-45, 165-130-73, and 165-130-69)

#### **BACKGROUND**

In April 2016 (RTC No. 16-0030) the City Council directed staff to issue a Request for Proposals (RFP) to solicit qualified developers to redevelop a City property of roughly 1.4 acres located on the corners of Iowa, Charles, and Mathilda Avenues in downtown Sunnyvale. This property had been slowly acquired and assembled between 1987 and 2015. In December 2015 Council provided policy direction and declared its intent to use this property for an affordable housing project.

The project site is located in Block 15 of the Downtown Specific Plan (DSP). The intent of the RFP was to seek a qualified housing developer to redevelop the project site consistent with the vision and development standards of the DSP. The subject site covers most of the southern half of Block 15, with frontage on Charles Street, Iowa and Mathilda Avenues. The DSP allows residential development on this block at a density of roughly 54 units per acre, and up to 10,000 square feet of neighborhood commercial uses, primarily on the southern and northern corners of the block along the Mathilda Avenue frontage. Currently there are six modest, older dwelling units on the project site, of which four are vacant and two are occupied. The land was appraised at approximately \$7.8 million in December 2014, based on its value if developed consistent with the DSP.

The RFP provided a very detailed framework of the City's vision and goals for this site, consistent with Council direction, and key evaluation and scoring factors. Applicants were given 5 weeks to submit their proposals, and the City received ten proposals in response to the RFP. Council had also directed staff to conduct the proposal evaluation and scoring process, rank the proposals and select the top-ranked developer for recommendation to Council for approval and award of an Exclusive Negotiating Agreement (ENA). A staff scoring committee consisting of senior staff and managers in several departments reviewed and evaluated the proposals based on evaluation criteria outlined in RFP. After a process of several months of review, presentations to the committee, and follow-up interviews, staff selected The Related Companies of California, LLC (Related) as the top choice to recommend to Council for negotiation of an ENA for the opportunity to develop the project.

The Related team for this proposal also includes Affordable Housing Access, a non-profit affordable housing provider based in Southern California, Housing Choices Coalition, a non-profit agency based in San José that provides housing-related services to developmentally disabled clients throughout the South Bay, and Steinberg Architects, a firm with extensive experience in Sunnyvale. Related's proposal described a project with 92 units, ranging in size from studios to three-bedroom units. The preliminary unit mix includes 23 units for developmentally disabled tenants, 45 for very low income

households (workforce housing primarily for service-sector workers) and another 23 for extremely low income tenants, most likely through the provision of operating subsidies such as project-based vouchers. This unit mix may change depending on the availability of certain types of construction and operating funding. Part of the work to be undertaken during the ENA term is to analyze the feasibility of the proposed unit mix based on current funding availability and targeting requirements. The final unit mix will be determined by the end of the ENA term. Amenities proposed include child care and interior and exterior common areas and features. Details such as project size, unit targeting and detailed site plans are very preliminary at this point and subject to significant refinement as the project moves forward in the predevelopment and planning stages. Related has described its approach and commitment to a very open and extensive public outreach process to help further refine the project concept, sizing, amenities, and design.

On November 15, 2016, City Council held a study session on the selected proposal and a closed session to discuss preparation of an ENA with Related (Attachment 1). At that meeting Council directed staff to move forward with preparation of an ENA and to schedule another closed session to discuss terms, followed by a public hearing shortly thereafter for formal approval of an ENA. A second closed session was held on February 7, 2017.

## **EXISTING POLICY**

### **General Plan, Housing Element**

**Goal A:** Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale's households of all income levels.

**Goal E:** Promote equal housing opportunities for all residents, including Sunnyvale's special needs populations, so that residents can reside in the housing of their choice.

### **Downtown Specific Plan**

#### **Goals and Policies**

- B. Establish the Downtown as the cultural, retail, financial and entertainment center of the community, complemented by employment, housing and transit opportunities.
  - B.2. Encourage below-market-rate housing in all residential neighborhoods.
- D. Protect and enhance existing neighborhoods.
  - D.3. Encourage intensification of specified high-density residential and commercial districts while maintaining the character and density of single-family neighborhoods surrounding the downtown.

## **ENVIRONMENTAL REVIEW**

This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15262 (feasibility and planning studies). This action is further exempt from the definition of a project pursuant to CEQA Guidelines section 15061 (b) (3) because it can be seen with a certainty that there is no possibility that it may have a significant effect on the environment. When a development project is submitted for development review, it will be reviewed pursuant to CEQA to assess its potential environmental impacts.

## **DISCUSSION**

An ENA is an agreement between the parties to negotiate exclusively for the right to acquire and develop the property. In this case the acquisition refers to a long-term ground lease, rather than a

purchase transaction, based on Council's prior direction. ENAs are used to provide the developer a form of preliminary site control which is needed in order for any entity to feel comfortable before expending significant funds of its own (potentially over a million dollars by the end of the ENA term) to complete the needed predevelopment and planning work, including design work, environmental studies, and other due diligence activities during the agreement term. In addition, most funding agencies require any applicant to have some form of site control such as an ENA, option to purchase, signed lease, etc. in order to be eligible to apply for project financing.

Since the November 15 meeting, staff has been working with the City Attorney and Related to prepare a draft ENA that will serve as a framework for the City and Related to negotiate mutually acceptable agreements and covenants related to the development of the project and terms for a long-term ground lease of the property. The ENA describes the major terms and topics to be negotiated between the parties during the one-year term of the ENA, such as:

1. The size, scale, and design of the Project and its components (residential units, number of special needs units, commercial space, common amenities, open space, parking), on- and off-site improvements, on-site services and programs, site and/or neighborhood transit, bike, and/or pedestrian linkages and/or related community benefits ("Project Description");
2. The land use approvals necessary for the Project, including environmental review;
3. The number of dwelling units, the levels of housing affordability and/or special needs units required, marketing and tenant selection plans, and the nature of affordability controls required by the City, as further set forth in a regulatory agreement to be recorded against title to the Property prior to issuance of building permits;
4. The physical and land title conditions of the Property, remediation of any adverse environmental conditions, site clearance and tenant relocation;
5. The timeline for development of the Project;
6. Financing plan and feasibility of the Project, including negotiation of Developer's requested financing from one or more of the City's Housing special revenue funds ("City Funding") in addition to other proposed sources;
7. Ground lease price, payment terms, and conditions of lease, and
8. Any other related matters that may be identified by either Party.

The draft ENA has a one-year term with the possibility of an additional six-month extension at the discretion of the City Manager, if deemed necessary to complete any of the tasks needed and if both parties would like to continue with the project at that point. The ENA requires Related to provide a good faith deposit of \$100,000 which will be available to be spent on the initial due diligence expenses, such as an appraisal, Phase I site assessment, survey, tenant relocation plan, preliminary title review, and so on. To the extent funds remain available after these items have been completed, they may be used for predevelopment expenses such as any environmental studies needed for the project's environmental review, initial design and engineering work, site planning, planning application fees, and similar expenses. A budget listing the eligible expenditures of the good faith deposit ("Predevelopment Budget") is provided in Exhibit D to the draft ENA in Attachment 1.

The main tasks to be completed during the ENA term include: the project feasibility study, which

includes both financial and physical feasibility; the initial phases of the community engagement process; the conceptual plans, environmental review, and project entitlements; the financing plan; negotiate terms for the ground lease; and negotiate terms for the City housing funding requested for the project, which includes finalizing the unit mix, targeting, and tenant selection plan.

Councilmembers requested that: the public engagement component be robust and start early to assure public feedback is actively considered and addressed throughout the process and that up to date information is available to the public; field trips to other affordable housing sites be arranged; future residents be adequately vetted; and robust termination provisions be included due to market fluctuation. The termination provisions are included in the draft ENA. The other items relate to the community outreach and future operations and will be addressed during the appropriate phases of the project. For example, one of the first deliverables is the public outreach plan which will address type of outreach and timing and can include an educational component such as field trips to other affordable housing developments (see page 16 of the Draft ENA, Attachment 1). Resident selection criteria will be addressed through the operation plan and the various funding sources, within the provisions allowed by law.

### **FISCAL IMPACT**

The recommended action will not impact the General Fund. If the ENA successfully concludes with a recommended ground lease and/or city financing commitment to the project, those actions could impact the General Fund positively and/or create expenditure(s) in one or more Housing special revenue funds. Those impacts cannot be evaluated in detail until the end of the ENA period, when the terms of any lease and/or loan agreements have been negotiated.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Approve the draft Exclusive Negotiating Agreement with The Related Companies of California, LLC for the development of the affordable housing project on Block 15; and authorize the City Manager to sign it in final form substantially consistent with Attachment 1 to the report and as approved by the City Attorney.
2. Approve the terms of the attached Exclusive Negotiating Agreement with The Related Companies of California, LLC with modifications specified by Council; and authorize the City Manager to sign it in final form substantially consistent with Attachment 1, as modified by Council, and as approved by the City Attorney.
3. Other Council direction.

### **STAFF RECOMMENDATION**

Alternative 1: Approve draft Exclusive Negotiating Agreement with The Related Companies of California, LLC for the development of the affordable housing project on Block 15; and authorize the City Manager to sign it in final form substantially consistent with Attachment 1 to the report and as approved by the City Attorney.

Alternative 1 has been developed consistent with prior Council direction for this site. Staff and The

Related Companies of California have spent considerable time and effort to implement the Council's direction and vision for this key City property in order to add a significant number of workforce and special needs housing units to the City's existing restricted affordable housing stock. The project contemplated by the ENA would allow current lower-income and special needs households and/or local workers to live in this "high opportunity" neighborhood near multiple job opportunities, multi-modal transit options, good schools, services and amenities in downtown Sunnyvale and elsewhere in the vicinity. The recommended action is one more step toward the Council's goal to prevent displacement, improve the local jobs-housing balance, and provide a variety of sustainable housing options affordable to various income levels in the heart of Silicon Valley.

Prepared by: Shila Behzadiaria, Assistant Planner

Reviewed by: Suzanne Isé, Housing Officer

Reviewed by: Trudi Ryan, Director, Community Development Department

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENT**

1. Draft Exclusive Negotiating Agreement between the City of Sunnyvale and Related California LLC