



Agenda Report

19-1113

Agenda Date: 11/12/2019

REPORT TO COUNCIL

SUBJECT

Action on Priority Project Permit Processing Cost Agreement with Related Santa Clara, Establishment of Eight New Staff Positions, Establishment of a Related Santa Clara Developer Fund, Establishment of Related General Administration and Related Permit Work Projects in the Related Santa Clara Developer Fund, and Approve the Related Budget Amendments

BACKGROUND

On June 28, 2016, Council approved a Disposition and Development Agreement (DDA), a Development Agreement (DA) and project entitlements for the Related Santa Clara Project (the "Project," also known as City Place). The Project involves development in several phases on 240 acres of land principally used as Santa Clara Golf & Tennis (Property).

The DDA and DA contemplated the need for financial resources from the Developer to fund third party costs to assist City staff in pre-development and permit processing efforts. In addition, the DA provided that the City would provide prompt expedited permit processing. Specifically, Section 8.2 of the Development Agreement provides:

"The City and Developer agree that Developer must be able to proceed efficiently with the development of the Project Site and that, accordingly, an efficient City review and land development and construction inspection process is necessary. Accordingly, the City agrees that upon submission by Developer of all appropriate applications and processing fees, City shall, to the full extent allowed by law, promptly and diligently, subject to applicable law, commence and complete all steps necessary to act on Developer's currently pending applications..."

Related Santa Clara (Developer) and their design team are preparing to submit to the City a number of plans and applications for plan review and permitting of Phases 1 and 2. The City does not currently have capacity to process the anticipated volume of plans in a timely fashion without significantly delaying the Related project nor any of the other permit applications submitted in the normal course of business.

In order to meet the objectives set out in the Development Agreement and to mitigate impacts caused by the Project on other permit applications, the Developer has agreed to the terms contained in the attached Priority Project Permit Processing Cost Agreement (Cost Agreement) fund a Priority Project Permit Processing program that includes three components:

- funding of costs for third party contractors for the technical review of plans submitted and inspection services;
- funding of eight FTE positions necessary to manage the third party contractors and to oversee the work; and

- payment of administrative permit fees.

A request for Council consideration of third-party consultant agreements for plan check and inspection services is a separate item on the November 12, 2019 Council agenda.

DISCUSSION

The proposed Cost Agreement implements and expands upon the Development Agreement provisions on Developer's payment of City costs and fees. The Cost Agreement covers four key concepts:

1. Permit Expediting Staff:

On a twice-yearly basis, Developer will pay to the City the amount the City estimates will be needed to fund the following eight additional City staff positions (also identified in Exhibit B of the Funding Agreement).

- Principal Engineer
- Senior Civil Engineer
- Associate Civil Engineer
- Public Works Inspector
- Senior Plans Examiner
- Senior Inspector
- Fire Protection Engineer
- Deputy Fire Marshal

These staff positions will give first priority to working on Project Phases 1 and 2 implementation details and agreements and the array of Project permits (such as grading, building and encroachment permits). Time permitting, these staff members may work on other City projects, but when Project plans are submitted or Project-related issues arise, priority will be given to the Related Santa Clara project. The one existing position (Principal Engineer) is an unclassified position and the seven other new positions will be civil service classified positions

Related may choose at the semi-annual intervals to stop funding the amount for any of the eight positions, but if they do so, they will lose rights to the expedited processing and credited administrative fees (both discussed below) as to the Phase 1 and 2 permits. If Related decides to stop funding a position, the City will determine If Related terminates funding in whole or in part, then the Council may decide whether to continue funding with other development permit fees in which case the personnel in those eight positions could be reassigned to different work.

2. Third-Party Consultants:

The City will hire (and Developer will fully fund) third-party plan checkers, other experts needed in the permit process and inspectors to expedite the permitting and inspection processes for Phases 1 and 2. The third-party consultants will be engaged by separate agreement(s) approval of which by Council will be on the November 12, 2019 agenda as a separate action item.

The third-party consultants will be assigned work as the permit applications come in. Each third-party consultant for permit and plan review shall review and assess the complexities of the permit package identified for submittal and affirm its commitment to achieve the Review Timelines as identified in Exhibit C of the Cost Agreement.

3. Administrative Fees:

As consideration for Developer funding the Permit Expediting Staff and the third-party consultants, the City will credit by fifty percent (50%) the amount of the Administrative Fees the City charges for the permits and approvals identified in Exhibit C of the Cost Agreement.

The rationale for the credit is that the Administrative Fees are used to fund the same permitting, plan checking and inspection activities that the Additional Permit Staff and the third-party consultants will undertake. As a result, Related will pay the Phase 1 and 2 Administrative Fees listed in Exhibit C to the Agreement at fifty percent (50%) of the amounts due and receive a 50% credit for work covered by the Funding Agreement at the same time as such fees are normally paid. Under the terms of the proposed Agreement, Developer will pay for all costs associated with third party review, eight full time staff, and 50% of cost for the Administrative permits being undertaken by the third-party consultants and receive a 50% credit.

All other Administrative Fees not listed in Exhibit C shall be charged at their regular amounts per the Municipal Fee Schedule.

4. Expedited Permit Processing:

The Cost Agreement includes Permit Work Processing Procedures attached as Exhibit D to the Agreement. Exhibit D specifies the process for engaging third-party consultants on individual permits and the timeline for review of each permit, assuming three rounds of review and with somewhat different timelines for permits of varying projected complexity.

Staff is recommending approval of the Funding Agreement because it will allow the City to augment its staff working on the Related Santa Clara Permit Work and have greater certainty as to its available staff and ability to plan for future processing of the Related Santa Clara plans.

Priority Project Manager

In addition to the terms of the Cost Agreement as outlined above, 2016 Development Agreement provided that the Developer would fund a Priority Project Manager, to act as a facilitator for project approvals and as an intermediary between the City and the Developer for the processing of project approvals; to address issues and concerns during the development of the project; and, to promote consistency across City departments. Although the funding of the position is already required under the terms of the Development Agreement and therefore is not required to be a part of the Cost Agreement, the position was not included in the FY2019/20 Adopted Operating Budget.

A Priority Project Manager has been identified and hired temporarily using a vacant Deputy City Manager position in the City Manager's Office (Stadium Authority). The recommended action would add a new Deputy City Manager position for the Priority Project Manager role and allow for the recruitment of a Deputy City Manager (Stadium Authority) as originally contemplated as part of the FY2019/20 Adopted Operating Budget.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environment Quality Act (CEQA) pursuant to CEQA Guidelines section 15378 (b)(4) in that it is a fiscal activity that does not involve commitment to a specific project which may result in potential significant impact on the environment.

FISCAL IMPACT

Funding for the seven new permit staff positions and the one existing permit staff position will come from this Funding Agreement with Related Santa Clara LLC. In addition, funding for the Priority Project Manager and the reallocation of funding for an existing Principal Engineer is included in the Budget Amendments below.

The Cost Agreement also provides for compensation of third-party plan check review and field inspection services. The Master Agreements with third-party consultants will be considered for approval by Council on November 12, 2019 under separate action. It should be noted that the positions are dependent on Developer contributions for funding. In the event the project is completed or is no longer able to fund these positions, further analysis would be required to ensure vacancies exist in other positions for possible reassignment or to determine other impacts (e.g., layoffs). The FY 2019/20 and FY 2020/21 Budget Amendments below reflect the position actions recommended in this report.

**Budget Amendment
FY 2019/20**

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Expenditures</u>			
Salaries and Benefits - Department of Public Works	\$15,396,960	(\$298,584)	\$15,098,376
<u>Reserve</u>			
Budget Stabilization Reserve	\$54,944,711	\$298,584	\$55,243,295
Related Santa Clara Developer Fund			
<u>Revenue</u>			
Developer Contributions	\$0	\$1,522,833	\$1,522,833
<u>Expenditures</u>			
Related General Administration Project	\$0	\$332,850	\$332,850
Related Permit Work Project	\$0	\$1,189,983	\$1,189,983

**Budget Amendment
FY 2020/21**

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Expenditures</u>			
Salaries and Benefits - Department of Public Works	\$16,171,081	(\$316,788)	\$15,854,293
<u>Reserve</u>			
Budget Stabilization Reserve	\$53,207,363	\$316,788	\$53,524,151
Related Santa Clara Developer Fund			
<u>Revenue</u>			
Developer Contributions	\$0	\$2,281,214	\$2, 281,214
<u>Expenditures</u>			
Related General Administration Project	\$0	\$375,190	\$375,190
Related Permit Work Project	\$0	\$1,906,024	\$1,906,024

COORDINATION

This report has been coordinated with the Finance Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

1. Approve and authorize the City Manager to execute the Priority Project Permit Processing Cost Agreement with Related Santa Clara, LLC;
2. Approve the addition of one Senior Civil Engineer, one Associate Civil Engineer, one Public Works Inspector, one Senior Plans Examiner, one Senior Inspector, one Fire Protection Engineer, and one Deputy Fire Marshal II;
3. Approve the addition of one Deputy City Manager, fully funded by the original Development Agreement approved by the City Council in June 2016;
4. Establish the new Related Santa Clara Developer Fund;
5. Establish the Related General Administration project and the Related Permit Work project in the Related Santa Clara Developer Fund; and
6. Approve the Related Budget Amendments decreasing the General Fund cost in the amount of

\$298,584 in FY 2019/20 and the amount of \$316,788 in FY 2020/21 to reflect the shift of costs to the Related Santa Clara Developer Fund; approve the Budget Amendment in the Related Santa Clara Developer Fund in the amount of \$1,522,833 for FY 2019/20 and in the amount of \$2,281,214 for FY 2020/21 to fund eight (seven new) permit staff positions to support the permit review process and one position for general administration for the Related Santa Clara project. (Requires 5 Council Affirmative Votes).

Reviewed by: Ruth Shikada, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Priority Project Permit Processing Cost Agreement