



Legislation Details (With Text)

File #: 18-1508 **Version:** 1 **Name:**
Type: Consent Calendar **Status:** Agenda Ready
File created: 11/2/2018 **In control:** Council and Authorities Concurrent Meeting
On agenda: 12/11/2018 **Final action:** 12/11/2018
Title: Action on an Exclusive Negotiation Agreement (ENA) with Freebird Development Company for 2330 Monroe Street

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2330 Monroe RFP and Report, 2. Freebird Development Proposal Final, 3. Draft ENA Freebird

Date	Ver.	Action By	Action	Result
12/11/2018	1	Council and Authorities Concurrent Meeting	Approved	

REPORT TO HOUSING AUTHORITY

SUBJECT

Action on an Exclusive Negotiation Agreement (ENA) with Freebird Development Company for 2330 Monroe Street

EXECUTIVE SUMMARY

Following an extensive community outreach process, the City issued a Request for Proposals (RFP) for the development of an affordable housing project on the City owned property located at the southeast corner of Monroe Street and San Tomas Expressway (2330 Monroe Street). Staff completed its review of the submitted proposals and recommended the selection of Freebird Development Company. City Council approved the recommendation at the September 11th meeting and Staff is now bringing forward an Exclusive Negotiation Agreement (ENA) for approval to allow the project to proceed.

BACKGROUND

After redevelopment agencies (RDA) were dissolved on February 1, 2012, the City, as Housing Successor to the dissolved RDA, assumed all housing assets (including land) of the former redevelopment agency and these assets were placed into a Housing Successor Fund. The Housing Successor must initiate development activities on any land that it obtained from the former RDA consistent with the intent to provide housing that is 100% affordable to persons and families of low and moderate income within five years after the Department of Finance confirmed the property as a housing asset. The 2.474-acre property located at 2330 Monroe Street is one of those properties (Property). It was confirmed as a housing asset by the Department of Finance on July 13, 2013, and the City's evaluation and selection of a developer properly initiates development activities within the appropriate time period.

Site Description

2330 Monroe Street is a vacant City-owned parcel at the southeast corner at the intersection of San Tomas Expressway

and Monroe Street. The site adjoins the rear yards of eleven (11) single family residential properties to the east and south on Sheraton Drive and El Capitan Ave. Multifamily development is located to the north on the opposite side of Monroe Street. A new City park is located to the west on the opposite side of San Tomas Expressway.

Land Use and Zoning

The site is currently zoned as Single Family (R1-6L). The land is designated as right-of-way on the General Plan Land Use diagram. Redevelopment of the site for new housing will subsequently require City Council and/or Planning Commission approvals of a General Plan Amendment, Rezoning, Architectural Review and California Environmental Quality Act (CEQA) and potentially National Environmental Policy Act (NEPA) review.

General Plan Consistency

Proceeding with the proposed development of the site for affordable housing will implement the City's General Plan. Section 8.12-7.1 of the Housing Element in the General Plan identifies the City's goals for neighborhood conservation, housing production, housing support, and housing opportunities. These goals include the following:

- Create and maintain high-quality, livable, and unique residential neighborhoods and preserve established single-family neighborhoods.
- Manage growth in the City by designating suitable vacant / underutilized sites for new residential development and ensure compatibility with community goals.
- Provide housing within the community for persons of all economic levels, regardless of religion, gender, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or mental or physical disability.
- Provide an adequate variety of individual choices of housing tenure, type and location, including higher density where possible, especially for low and moderate income and special needs households.

Community Feedback

Because of the high degree of community interest and sensitivity related to use of the site for affordable housing, prior to issuance of the RFP and engagement with a developer the City conducted a community engagement program to inform the community about the RFP process and to allow the community to identify objectives for the site.

Approximately 50 members of the public participated in a staff led community meeting/workshop on December 7, 2017. The community workshop covered topics such as affordability; site layout and density; housing types; and amenities. Following the community meeting, Staff conducted an online survey to allow for additional community participation and refinement of earlier input. Approximately 50 community members heard a presentation from City staff and participated in guided workshops covering a range of topics.

The outreach process emphasized community visioning and planning workshops that facilitated meaningful community engagement, identified community priorities, and gathered ideas from those who live and work in the projects areas. All meeting materials were published online along with a full Community Visioning Report which recorded each and every piece of feedback received. When the RFP was issued following the initial outreach, it included the Community Visioning Report (Attachment 1: 2330 Monroe Street RFP and Community Report) and the developer's ability to address community concerns was listed as one of the RFP selection criteria.

An RFP for the development of the Property was issued on March 30, 2018 and eight competitive proposals from highly qualified development firms were received by the May 31, 2018 deadline.

RFP Selection Timeline

Community Engagement	December, 2017
RFP Available	March 30, 2018
Question and Answer Period	April 16, 2018
Proposals due	May 31, 2018
Evaluation	June 18, 2018
Selection of Developer	June/July, 2018

Of the eight proposals, three Respondents were selected for an interview based on financial feasibility, financial competitiveness, and responsiveness to community feedback as presented in their proposals. The three finalists were: Freebird Development Company, Santa Clara County Housing Authority (SCCHA), and Premiant Development, LLC. The interview panel consisted of the representatives of the City (City Manager's Office and Community Development), and the County Office of Supportive Housing. Based on the interviews, Staff sent follow-up questions to both Freebird Development Company and SCCHA, the top two finalists. Ultimately, the interview panel made a unanimous decision to select Freebird Development Company as the recommended Developer.

On September 11, 2018, staff made a presentation to the Council about the RFP and the corresponding developer and proposal review process, and recommended the selection of Freebird Development Company. Council directed staff to prepare an Exclusive Negotiations Agreement with Freebird Development Company for Council consideration.

DISCUSSION

Freebird Development Company Proposal

Freebird Development Company, LLC ("Freebird"), a joint venture between experienced developers Robin Zimbler and L+M Development Partners, Inc. ("L+M"), was selected as the recommended developer on the basis that Freebird has assembled a strong development team with demonstrated expertise in the delivery of affordable housing, a commitment to community accountability, and the creative skills needed to realize the community's vision for the site. As more thoroughly described in Attachment 2: Freebird Development Proposal, Ms. Zimbler is a leader in the affordable, mixed-income, and community development field with over 15 years of experience in both the public and private sectors.

The proposed financial structure for the project is very attractive for the City's Affordable Housing Fund. The City will retain long-term ownership of the parcel through a ground lease. The terms of the ground lease are still to be determined, but the duration of the lease is likely to be 55 years and will provide ongoing revenue to the City in the form of residual cash flow receipts once the City's loan is repaid (anticipated in Year 35). Furthermore, the City will be able to minimize its loan (\$4.5 million), leverage other federal and local subsidies (\$12.2 million), and provide the City a return of its principal plus interest at a rate of 3%.

In total, there are five main potential sources of capital financing as follows:

- **Low Income Housing Tax Credit Equity (LIHTC).** LIHTC is a limited partner equity generated through 4% low income housing tax credits that serve as both construction and permanent financing. The net equity to the project is \$9,628,467, which is based on a 60% applicable fraction given that 40% of the units are above 60% AMI tax credit rents. The amount of equity is based on the published June 2018 tax credit rate of 3.29% and a raise of \$1.00 on the dollar, which is similar to tax credit pricing on recent projects in the Bay Area post tax reform.
- **Tax Exempt Bonds** Tax exempt bonds in the amount of \$21,383,174 during construction and \$15,205,168 during the permanent period are the second source of financing. The tax exempt bonds will be interest only and non-amortizing during construction. The projected construction term is 21 months with up to an additional 7 months to meet the permanent loan take-out requirements (conservatively assumes 10 units leased per month plus a stabilization period). The

permanent loan amount is based a minimum 1.15 debt coverage ratio, and 40 year amortization (consistent with the terms of the CalHFA Permanent Take-Out Loan Program). Interest rates are 3.25% during construction and 5.18% during permanent.

- City of Santa Clara Residual Receipts Loan.** A \$4,466,535 construction period and permanent residual receipts loan from the City of Santa Clara has been included (\$75,000/unit). The current underwriting shows 3% interest on the loan, which can be repaid during the 55-year term of the loan using 3% income and 3% expense inflators. The 55-year cash flow shows that based on the City and County/State receiving 50% of the residual receipts on a pro rata basis, the loan will be repaid in Year 39 and, over that period, the City will receive roughly \$5,000,000 in interest on the loan in addition to the \$4,466,535 repayment of principal.
- County Measure A or State Multifamily Housing Program (MHP) Loan.** The fourth source of financing is \$2,606,829 in either County Measure A or State MHP funds. County Measure A funds may be available for workforce housing projects next year. Similarly, the State intends to launch a new round of MHP funding next year. Either loan would be structured as a 3% residual receipts loan with a 55-year term. The loan has been structured as a permanent source only given MHP guidelines.
- Deferred Developer Fee and Deferred Reserves.** The final source of financing is deferred costs including deferred developer fees and reserves. By deferring developer fee during construction, the Developer defers \$1,300,000 million of its fee to the back end of construction and will be paid during the permanent phase.

The following is a summary of a potential financing structure:

Project Funding - Permanent Sources	
	Amount
Tax Credit Equity	\$ 9,628,467
CalHFA Take-Out Loan	\$ 15,205,168
City of Santa Clara Loan	\$ 4,466,535
Measure A or MHP	\$ 2,606,829
Deferred Developer Fee	\$ 1,300,000
Deferred Oper Reserve	\$ -
Deferred Rep Reserve	\$ -
Total Sources	\$ 33,206,998

Freebird's proposal to provide housing for moderate-income, "workforce" households responds to the community's desire to create homes in the City for people who work in a variety of lower-paying jobs that provide key services to the community. The City's existing market rate rental housing is out of reach for many working families, including those supported by workers in public service, health care, education, retail, hospitality, and social services. While workers in the lowest-paid jobs (from minimum wage to 60% AMI) can apply for five-year wait lists for affordable housing, families in the 60% to 120% AMI range are excluded even from typical affordable housing. The following is a summary of the project's proposed affordability structure:

Proposed Project Unit Mix		
Income	Total Units	Percentage
30% AMI	13	20%
50% AMI	8	12%
60% AMI	13	20%
80% AMI	9	14%
100% AMI	11	17%
120% AMI	10	15%
Manager	1	2%
Total	65	100%

A unique aspect of Freebird's proposal is its set-aside of 20% of the units (13 units at 30% AMI) for Santa Clara's growing population of adults with developmental disabilities. This provision would address a previously unmet goal of the City's 2014-2022 Housing Element: to collaborate with developers to create inclusive housing for people with developmental disabilities served by the San Andreas Regional Center.

Finally the proposal shows that Freebird recognizes the importance of community engagement, input and response, and will work closely with the community to better shape the project and garner support. The proposal's Community Engagement Plan presents an extensive community engagement strategy with five (5) community meetings during the initial design phase and quarterly project updates post entitlements. Ms. Zimble and Housing Choices Coalition together also employed a similar strategy in Sunnyvale to gain community support for the preliminary design concept for a 90-unit project at Mathilda and Iowa Avenues, directly across the street from an affluent, single family community.

In response to community concerns about privacy, the proposed project would utilize several mitigating measures including placing the building along San Tomas Expressway with a generously sized "All Abilities" play area, courtyard, and surface parking between the bulk of the building and the neighboring single family homes. The proposal also includes a large setback and sound barrier between Monroe Street and the new building and an attractive privacy fence along the property line shared with the neighboring single-family homes.

Exclusive Negotiation Agreement

The key terms of the proposed Exclusive Negotiation Agreement (ENA) include the following:

Term:

The negotiating period under the Agreement is eighteen (18) months, commencing on the date the Agreement is fully executed, which may be extended for a period of an additional two periods of six (6) months each by the City Manager upon presentation of a written request from the Developer together with a schedule of tasks to be accomplished during the additional period.

The Project:

The Developer has proposed to develop the Property with 55-70 units of affordable housing,

including a 20% set-aside of units targeted to persons with developmental disabilities (the “Project”). The entire project is proposed to be affordable to households with income between 30% and 120% Area Median Income (AMI). Through both community engagement and the design process for the site, the number of affordable units will be determined.

Funding:

The City will retain long-term ownership of the Property through a ground lease structure. As outlined above some City Affordable Housing funds may be recommended to Council to finance this affordable housing development up to a maximum subsidy of \$75,000 per affordable housing unit.

Deposit:

The Developer will submit to the City as a good faith and initial third-party consultant costs deposit, the sum of Twenty Five Thousand Dollars (\$25,000) to be paid within thirty (30) days following execution of the Agreement by the City and the Developer.

Key Milestones:

Milestone to be performed by Freebird during the term of the ENA include:

- Preparation of schematic designs for the Project
- Preparation of California Environmental Quality Act (“CEQA”) analysis and documentation;
- Application to the City for project entitlements including: Planned Development Zoning, Planning and Development Permits and Tentative Map Application and circulation of Draft CEQA Analysis;
- Submission of project financing strategy and corresponding documents;
- Site analysis and due diligence; and,
- Negotiations and documentation of a Disposition and Development Agreement for Council consideration.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no cost to the City for this agreement other than administrative time and expense. As noted above, implementation of the proposed project would generate ongoing revenue to the City’s Affordable Housing Fund.

COORDINATION

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

PUBLIC CONTACT

Following the September 11, 2018 Council direction to proceed to negotiate an ENA with Freebird a community meeting was held on October 19 at 6 p.m. in the City Hall Cafeteria. A second meeting was held on November 5 at 6 p.m. in the City Hall Cafeteria and reviewed early design concepts, and addressed Q&A.

The project will continue to engagement the public during the ENA term. Staff will continue to work

closely with community members and other interested stakeholders throughout the process.

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

Approve and authorize the City Manager to execute an Exclusive Negotiation Agreement (ENA) with Freebird Development Company for the development of 2330 Monroe Street in a form as approved by the City Attorney

Reviewed by: Andrew Crabtree, Director of Community Development

Approved by: Deanna J. Santana, Executive Director

ATTACHMENTS

1. 2330 Monroe Street RFP and Community Report
2. Freebird Development Proposal
3. Draft Exclusive Negotiation Agreement (ENA)