



CITY OF SALINAS

COUNCIL STAFF REPORT

DATE: **August 15, 2017**

DEPARTMENT: **COMMUNITY DEVELOPMENT DEPARTMENT**

FROM: **MEGAN HUNTER, DIRECTOR**

BY: **JOEL ALVAREZ, HOUSING SERVICES SUPERVISOR**
CHRISTOPHER VALENZUELA, COMMUNITY DEVELOPMENT
ANALYST

TITLE: **EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT (ENRA)**
WITH THE ALISAL UNION SCHOOL DISTRICT (AUSD) FOR
1081 BUCKHORN DRIVE

RECOMMENDED MOTION:

A motion to approve a Resolution related to the Exclusive Negotiating Rights Agreement (ENRA) and future Land Disposition Agreement (LDA) with Alisal Union School District (AUSD) for the development of an Early Childhood Education and Childcare Facility located at 1081 Buckhorn Drive.

RECOMMENDATION:

It is recommended that the City Council approve a Resolution authorizing the Exclusive Negotiating Rights Agreement (ENRA) and future execution of the Land Disposition Agreement (LDA) for an Early Childhood Education and Childcare Facility located at 1081 Buckhorn Drive.

EXECUTIVE SUMMARY:

In 2001, the City of Salinas received \$350,000 from the United States Department of Housing and Urban Development (HUD) through its Economic Development Initiative (EDI) Special Projects Grant program by the way of Congressman Sam Farr's office. The HUD EDI grant was provided to the City in order to support the development of an Early Childhood Education and Childcare Facility (Facility) in Salinas. Since 2001, city staff has been working diligently to find a developer/operator for this Early Childhood Education and Childcare Facility (Facility) as originally intended in the grant. After two unsuccessful Request For Proposal cycles for the property, the City and Alisal Unified School District (AUSD) began discussions on the development of a Facility in 2015. In partnership with Community Housing Improvement Systems and Planning Association, Inc. (CHISPA), the City worked with AUSD in the development of an ENRA that met the community's expectation of a much needed, quality Facility.

BACKGROUND:

As part of the Falcon Ridge subdivision developed by CHISPA, a parcel of land approximately eight tenths of an acre, located at 1081 Buckhorn Drive (Property) was set-aside for the future development of a facility to service area residents. On September 25, 2006, the City Council approved Resolution No. 19079, approving the purchase by the City of the Property from CHISPA with HUD EDI funds. In 2015, AUSD began discussions with the City and CHISPA about the District's proposed plans for the potential purchase of the Property and the construction and operation of a Facility. In the time since commencement of its discussion with the City, the AUSD has been securing additional partners for the construction and operation of the Property. AUSD has expressed to the City that having control of the Property would allow them to seek additional State funding for construction and operation of a future Facility. The City intends to sell the Property to AUSD so that a Facility can be constructed and operated in the future.

DISCUSSION:

On May 24, 2016, the City received HUD's authorization to proceed with the City's proposed plans for the Property. As a result, City staff continued to engage with AUSD along with AUSD's Community Partners (United Way, Go Kids, First 5 Monterey County, CHISPA, California Endowment, Building Healthy Communities, and Monterey County Office of Education) regarding AUSD's proposal to develop a Facility on the Property.

After further consultation, which included legal counsel, the City concluded that the most appropriate way to facilitate the development and operation of the Facility is for the City to enter into an ENRA with the AUSD. The City is entering into an ENRA to allow AUSD to begin the design of conceptual drawings and work towards obtaining necessary funding for the development and operation of the Facility. Upon AUSD's satisfactory performance of the ENRA, the next step would be for City to enter into a Land Disposition Agreement (LDA) with AUSD that will provide the conveyance of the property to AUSD.

The initial negotiation period between the City and AUSD is nine months commencing on the effective date of the ENRA. The negotiating period may be extended for two additional three (3) month periods called an "extension period" by written mutual agreement. If the LDA has not been executed by the City and AUSD by the expiration of the negotiating period, then the ENRA shall automatically terminate.

During the negotiating period, AUSD will incur third party expenses related to due diligence and predevelopment activities. As a result, CHISPA would provide financial assistance to AUSD in an amount not to exceed \$324,324.54 for certain predevelopment costs for the Facility pursuant to terms of a Memorandum of Understanding (MOU) between CHISPA and AUSD. During the negotiating period, the AUSD shall also prepare a detailed financial plan to evaluate the overall financial feasibility of the future Facility.

Within three (3) months from the effective date of the ENRA, the AUSD shall also provide the City with a detailed Schedule of Performance for the proposed Facility. The preliminary

Schedule of Performance is included as Exhibit C within the ENRA and includes timelines for public engagement, funding commitments, submittal of preliminary plans, environmental requirements and execution of a future LDA.

If specified ENRA preconditions were satisfied, the City would then convey the Property to AUSD at a purchase price of \$1 for the development and operation of the Facility. In exchange, the AUSD will construct and operate the Facility with no further commitment of additional subsidies or contributions from the City. The LDA would include specific terms and conditions along with a timeline for successful completion of various steps throughout the entire development process. The LDA would also include a requirement for a minimum five (5) year operation of the facility including specified terms for non-performance.

A key part of the process for considering housing-related projects is coordination and review by the City's CDBG/Housing Subcommittee. A duly noticed CDBG/Housing Subcommittee meeting was held on Tuesday, March 29, 2016, where it was recommended to concur with staff's recommendation to proceed with the ENRA and future LDA for the potential sale of the Property to AUSD upon HUD's authorization. The City has received HUD's authorization and is forwarding this item to the City Council for final consideration.

CEQA CONSIDERATION:

The City of Salinas has determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

STRATEGIC PLAN INITIATIVE:

The authorization of the ENRA and future LDA are in concurrence with the following City 2016-19 Strategic Plan goals:

- Goal IV - Well Planned City and Excellent Infrastructure
- Goal V – Quality of Life

FISCAL AND SUSTAINABILITY IMPACT:

This action will have no direct impact on the City's general fund, as prior funding was provided by HUD EDI funds. The AUSD is proposing to develop and operate the Facility without additional financial commitments from the City.

ATTACHMENTS:

- Resolution
- ENRA