The City of San Diego

Staff Report

DATE ISSUED:	September 8, 2022	
TO:	City Council	
FROM:	Department of Real Estate and Airport Management	
SUBJECT:	Notice of Availability for Midway Site – Recommendation for Selection of Midway Rising and Authorization to Negotiate and Enter into an Exclusive Negotiating Agreement with Midway Rising	
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Council District(s):	2	

OVERVIEW:

After declaring approximately 48.5 acres of land in the Midway District to be "surplus land," issuing a notice of availability (NOA) and completing a 90-day good faith negotiating period in accordance with the Surplus Land Act (SLA), the City Council (Council) approved shortlisting the five NOA respondent down to three on May 23, 2022 (Attachment A). Staff, along with the City's consultant, JLL, have since conducted comprehensive due diligence and a preliminary economic analysis on the shortlisted teams in alignment with the priorities of the SLA. Staff has completed its due diligence and analysis on the three teams and is recommending that the Council select the Midway Rising team as the successful respondent to the NOA and authorize the Mayor or their designee to negotiate and enter into an Exclusive Negotiating Agreement (ENA) with Midway Rising for negotiation of agreements for redevelopment of the City-owned property located at 3220, 3240, 3250 and 3500 Sports Arena Boulevard.

PROPOSED ACTIONS:

Adopt a resolution selecting the Midway Rising team as the successful respondent team to the Midway NOA and authorize staff to negotiate and enter into an ENA for the redevelopment of the City-owned real property located at 3220, 3240, 3250 and 3500 Sports Arena Boulevard.

Adopt a resolution declaring that the selection of the Midway Rising team as the successful respondent team to the Midway NOA and authorization of the Mayor or designee(s) to negotiate and enter into an ENA for the redevelopment of the City-owned real property located at 3220, 3240, 3250 and 3500 Sports Arena Boulevard project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) as the activity is covered by the common sense exemption that CEQA applies only to projects 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.

DISCUSSION OF ITEM:

Background

In early 2021, the City was notified that a process run by the prior City administration was not in compliance with the recently revised SLA for a solicitation it issued for the 48.5 acre City-owned property located at 3220, 3240, 3250 and 3500 Sports Arena Boulevard (collective "Property"). Staff immediately began working with the California Department of Housing and Community Development (HCD) to start a new process by declaring the Property as "surplus" and included a "development condition" that required responses to the NOA to replace or renovate the existing regional entertainment venue (known as the Sports Arena). As detailed in Attachment A, on September 21, 2021, the Council unanimously declared the Property in the Midway-Pacific Highway Community, which includes the existing Sports Arena, "surplus land" under the SLA and related guidelines issued by HCD.

The NOA process is prescribed by HCD and varies from a traditional solicitation process for a development project. Unlike a traditional solicitation, which identifies specific criteria and weights, the SLA prioritizes affordable housing. Specifically, when an agency is reviewing responses to an NOA, the SLA requires respondents propose 25% of the proposed units at 80% average median income (AMI) or below. In the event that all respondents exceed 25%, the SLA requires that "first priority" shall be given to the team that proposes the highest number of affordable housing units.

In accordance with the SLA, the NOA was issued by the City to entities registered with HCD as affordable housing sponsors and government agencies. The NOA was posted for 60 days and, on December 3, 2021, the Department of Real Estate and Airport Management (DREAM) received five responsive submittals from:

- Discover Midway – led by Brookfield Properties
- HomeTown SD – led by Monarch Group
- Midway Rising – led by Zephyr
- Midway Village + – led by Bridge Housing
- Neighborhood Next – led by The ConAm Group

On December 4, 2021, the City began a "90-day good faith negotiating period" as required under the SLA with the five respondent development teams. Staff thoroughly reviewed their responses, met with the teams and used January 2022 to work with each team on a "Supplemental Information Request" so that staff could compare all of the responses equitably. After receipt of each team's Supplemental Information, staff met with the teams again to focus on priority areas under the SLA, specifically the greatest number of affordable units being proposed below 80% Area Median Income (AMI) and the deepest level of affordability for the proposed affordable housing units. Each team then submitted a final housing summary and provided preliminary projections of what the City could expect from each team and what their asks of the City would be. On March 4, 2022, the "90-day good faith negotiating period" ended.

After consulting with and receiving concurrence from HCD on March 9, 2022, staff presented a recommendation to the Land Use and Housing Committee to shortlist the three teams with the highest number of proposed affordable housing units and met the NOA development condition of renovating or replacing the current Sports Arena. On May 23, 2022, the Council approved moving forward with Midway Rising, HomeTown SD and Midway Village + to a due diligence phase. HCD concurred that since the City's shortlist included the team proposing the highest number of affordable units, and thus receiving "first priority," that the City was in concurrence with the SLA.

Due Diligence

Although the SLA requires agencies to provide "first priority" in making a selection to the team proposing the highest number of affordable housing units, the City wanted to conduct due diligence on the three teams that proposed the highest number of units to ensure that the team receiving "first priority" would be the best partner for the City and was capable of delivering the proposed project. Following a competitive solicitation process, the City contracted with JLL on June 14, 2022 to provide financial analysis and consulting services. In coordination with staff, JLL prepared a Request for Information (RFI) (Attachment B) to obtain additional information from each team. It is important to note that the City did NOT create an opportunity for the teams to refine their housing summaries during the due diligence period; however, when teams submitted their responses to the RFI, some of team's adjusted their numbers. Because the adjusted housing numbers tied out to their financial models, and ultimately would not impact priority under the SLA, staff did not ask JLL to reject the submittals or request a resubmittal. The changes in the housing numbers for each of the teams are noted in the team summaries below.

Financial

Focusing on the financial analysis, JLL requested a detailed proforma/financial model from each team to review, in addition to materials previously submitted to the City through the NOA and 90-day good faith negotiating period. Following receipt of the responses to the RFI (Attachments E-G), JLL and City staff had one comprehensive working session with each team, in addition to several direct interactions with individual team representatives during the month of July 2022. It should be noted that HomeTown SD submitted additional information regarding their arena concept on August 1, 2022, which is attached to their RFI submittal but was not analyzed since it was received late.

As detailed under the "Limitations" section of Attachment C, the City and JLL acknowledge that the information provided by all teams is preliminary and subject to change as physical due diligence is conducted and negotiations advance. JLL's accompanying report outlines all its findings in analyzing each of the team's comprehensive responses to date, which are summarized by team in the sections below.

Operational

In parallel to JLL conducting its financial analysis, staff focused on each team's operational experience and ability to deliver a project. With the priority components of the NOA being affordable housing, under the SLA, and the renovation/replacement of the existing arena, under the development condition, each team was asked to identify one representative affordable housing project and one representative stadium/arena project that their team delivered or was in the process of delivering. Staff visited these projects and developed a series of questions to ask each of the teams. Responses to the questions and a high-level summary of staff's observations are provided in Attachment D. Staff also reviewed disclosures from each team regarding previous and existing litigation and reviewed letters of reference, as noted in each team's summary section below.

<u>Team Summaries</u>

Summaries of each team's responses to the NOA are included in Attachment A and provide details about the respondent's relevant experience and approach to its respective proposed project. The summaries below are reflective of the additional information gathered and analysis completed by the City and JLL during the due diligence phase.

HOMETOWN SD

Team updates:

On July 21, 2022, ASM Global, previously of the Discover Midway team that did not advance to the due diligence phase, notified City staff that they were joining the HomeTown SD team (Attachment H). As was noted in Attachment A, ASM Global, a subsidiary of AEG, joined the existing arena manager in 2008 and has been providing management, operations and marketing of the Sports Arena since that time.

Following the closing of the due diligence period, and after advising the teams we were not accepting additional information, on August 21, 2022, HomeTown SD submitted a letter (Attachment K) to the City. In the letter, HomeTown SD stated that they wished to "increase the number of affordable housing units (as defined by HCD) that we propose by at least 300." HomeTown SD advised this was due to it becoming clear to them that the amount of affordable housing being proposed was a "singular priority" in the City's evaluation process. As previously noted in the Background section, the SLA states that "first priority" shall be given to the team proposing the highest number of units, which was clear in the NOA and reiterated to all five teams that participated in the "90-day good faith negotiating period" required under the SLA. During the"90-day good faith negotiating period" staff did allow all five respondents to review and update their proposed housing numbers, making it clear that the SLA provides "first priority" to the team proposing the highest number of affordable units. At that time, HomeTown SD increased their proposed number of units from 1,625 to 1,726. The City did not create a reopener during the due diligence phase to increase their housing numbers. Since the City did not offer this opportunity to all of the teams during the due diligence process, and this letter was received following that process being complete (which would also impact the financial models JLL analyzed), the City is not considering this "offer" but has attached it to be transparent.

Summary of Financial Analysis:
HomeTown SD is proposing to build 1,726 affordable units with an average level of affordability for those units at 45.6% of AMI. The unit mix includes 33% 1-bedroom units, 45% 2-bedroom units and 22% 3-bedroom units with an average unit size of 778 square feet. HomeTown SD's financing strategy for the affordable housing includes Low-Income Housing Tax Credits (LIHTC) as the key financing source paired with various other Federal, State, and local housing funds, along with private debt financing. HomeTown SD proposes to deliver the affordable units through a consistent phasing approach of 100-200 units per year over a 12-year period. With the exception of project-based vouchers, HomeTown SD is not seeking any direct funding from the City but does assume City support for its funding applications.

HomeTown SD proposed a new 225,000SF arena, which is the smallest arena with the lowest capacity of of the three proposals at 9,000 – 12,500. HomeTown SD proposes to close and demolish the existing arena while the new arena is built, with an estimated two to three year period with no arena, meaning that the City would lose programming opportunities and revenue during construction in the absence of a venue. JMI Sports would develop the arena and operate it with ASM Global, the current operator of the existing arena.

HomeTown SD's overall project financing strategy contemplates an Enhanced Infrastructure Financing District (EIFD) property tax increment commitment to finance optional river park improvements and reimburse development impact fees under the City Midway-Pacific Community Plan. HomeTown SD also requests the City commit to a Joint Powers Authority and property tax emption for its middle-income housing. HomeTown SD also proposes that the City own and maintain all the streets developed as part of the proposed project.

Operational Analysis:
The HomeTown SD team selected the Livia at Scripps Ranch project for its representative affordable housing development and Petco Park for its arena/stadium project.

Livia at Scripps Ranch – On June 30, 2022, staff visited the site of the Livia at Scripps Ranch project and met with representatives of Monarch, Essex and Eden Housing. The Livia project is a 264-unit apartment project of which 53 units will be affordable to households with incomes at or below 50% of AMI for 55 years. Livia is being co-developed by Monarch and Essex. The $110 million project is a public-private partnership with the San Diego Unified School District and features 2,000 square feet of retail, resort style amenities, community garden and 4,000 square foot STEAM facility for students of the school district. Although the development was still under construction, staff had the opportunity to walk through the project and tour several units. Livia is under a long-term lease with the school district and was primarily financed with multi-family housing revenue bonds issued by the San Diego Housing Authority and private equity. Livia is the first apartment project in the Scripps Ranch Community with affordable units set aside for very low-income households.

Petco Park – On June 30, 2022, staff also visited Petco Park in Downtown San Diego with JMI Sports and Monarch Development. JMI Sports currently serves as the owner and development manager of Petco Park and its CEO formerly served as Vice President of Development for the San Diego Padres and was involved in all facets of the project leading to its development. Petco Park opened in 2004 as a Major League Baseball stadium that is 70% owned by the City and 30% owned by the Padres. The facility contains approximately 42,500 seats and hosts approximately 80 home games per year. The $474M development of the stadium was financed through a public-private partnership between the City, Redevelopment Agency and Port of

San Diego and has served as a catalyst for both public and private investment in the surrounding area. Mr. Judson and Mr. Moores provided an in-depth tour of the facility, answered questions on its operations and provided staff with a high-level overview of the impacts the stadium has had on the surrounding area.

The site visit summary for HomeTown SD is included in Attachment D.

References:
HomeTown SD submitted letters of reference as part of its RFI submittal (Attachment E) for Monarch, Essex and Eden. Letters were received from Wells Fargo Commercial Real Estate Group, JLL and Nationwide Insurance- Real Estate Investments for Monarch, PNC Bank and Wells Fargo Corporate and Investment Banking for Essex and AFL-CIO Housing Investment Trust for Eden. Additional references are also listed in Attachment E.

MIDWAY RISING

Team updates:
None.

Financial Analysis:
Midway Rising is proposing to build 2,000 affordable units with an average level of affordability for those units at 47.9% of AMI, which is the highest number of affordable units and thus provides Midway Rising with "first priority" for selection under the SLA. The unit mix includes 49% 1-bedroom units, 27% 2-bedroom units and 24% 3-bedroom units with an average unit size of 849 square feet, which is the largest average unit size of all three teams. Midway Rising's financing strategy for the affordable housing includes LIHTC as the key financing source paired with various other Federal, State, and local housing funds, along with private debt financing. Midway Rising proposes to deliver the affordable units through a consistent phasing approach of 300-500 units approximately every two years over a 9-year period. With the exception of project-based vouchers, Midway Rising is not seeking any direct financing from the City but does assume City support for its financing applications.

Midway Rising proposes a new 450,000 SF arena with the highest capacity of the three proposals at 14,500-16,500. Midway Rising proposes to build the new arena over a two-year period and then demolish the old arena so there would be no downtime, meaning that the City would not lose programming opportunities or revenue during construction. As a "360 Degree Service Solution," Legends would not only develop the arena but also operate it. Midway Rising's financing strategy for the arena includes a mix of private equity and debt and requests no direct City financial participation.

Midway Rising's overall project financing strategy also contemplates an EIFD using property tax increment to provide supplemental funding for infrastructure, similar to what the City has done in Otay Mesa. Midway Rising also wishes to explore solutions for tax-exempt financing/favorable tax treatment for its middle-income housing. At this early phase, Midway Rising's collective asks for City participation in financing its project are the least impactful to the City.

Operational Analysis:
The Midway Rising team selected Stylus & Siena at Civita in Mission Valley for its affordable housing development and The Star, Dallas Cowboys headquarters and training facility in Frisco, Texas for its arena site visit.

Stylus & Siena at Civita Mission Valley - On July 15, 2022, staff visited the Stylus & Sienna affordable housing development located within the 203-acre master planned community of Civita in Mission Valley and met with representatives from Chelsea Investment Corporation, Zephyr Development and Legends. Stylus & Sienna is a 306-unit affordable housing community containing two distinct affordable programs. Stylus contains 203- family housing units for households with incomes between 50% and 60% of AMI. The total cost of this development was $112M and financed with 4% low-income housing tax credits, tax exempt bonds and developer equity contribution. Sienna contains 103-senior housing units restricted for incomes between 30%-60% of AMI. The total cost of this development was $43M and financed with 9% low-income housing tax credits, land contribution, AHP grant and developer equity contribution. Chelsea developed and manages this project. The site visit included a tour of the affordable housing development and amenity spaces. Staff had a discussion with the team regarding operations, maintenance, long-term holding philosophy and financing strategies for the various product types. The site visit was followed by a power point presentation led by Chelsea in the Sienna conference room where Chelsea provided an overview of some of the challenges encountered during construction and answered staff's questions.

The Star - On July 12, 2022, staff visited The Star in Frisco, Texas and met with representatives from Chelsea Investment Corporation, Zephyr Development and Legends. The Star is a 91-acre campus of the Dallas Cowboys World Headquarters and practice facility. The focal point of the campus is the Ford Center that serves as the Cowboys football operations and practice field and serves as a multi-purpose 12,000 seat, 510,000 square-foot indoor stadium hosting over 40 events per year. The venue hosts the Dallas Cowboys and Cheerleaders training camps, school district high school events, concerts, conventions and trade shows. The Ford Center is surrounded by offices, retail, restaurants, gym facilities, residential and a hotel (Omni Hotel) that is directly adjacent to the stadium. At a total cost of $755M, the development at The Star was a public-private partnership between the Dallas Cowboys, the City of Frisco and the Frisco Independent School District. The City of Frisco and the school district contributed $90M upfront to fund stadium construction costs plus $25M to build the Cowboys Headquarters and $20M for parking. As part of this transaction the City owns the stadium, two practice fields and 1,500 space parking garage. The balance of the project costs where covered by the Cowboys. Legends provided research, financial analysis and project management services for the development of The Star. Legends continues to represent the Cowboys and manage development and operations at The Star and has offices there.

The site visit summary for Midway Rising is included in Attachment D.

References:
As part of the RFI response (Attachment F), with the City's priority on affordable housing, Midway Rising focused their letters of reference on Chelsea as the affordable housing partner. Letters were received from The Richman Group, US Bancorp Community Development Corp. (US Bank CDC) and Citi Community Capital, all of which were very complimentary. Additional details regarding the follow-up calls with these references are provided in the Recommendation for Selection below.

MIDWAY VILLAGE +

Team updates:
On June 28, 2022, Midway Village + issued a press release announcing they were adding CAA ICON to their team (Attachment I) for owner's representative and strategic management consulting services. CAA ICON is an arena development advisor that has managed the development of more than 55 sports and entertainment projects, over 2,000 consulting projects and nearly $40 billion in project values spanning 33 states and 10 countries.

Midway Village+ was proposing to build 1,610 affordable units as part of its final housing summary under the "90-day good faith negotiating period." As noted earlier, the City did not go back to the teams to, once again, ask all of them for revised housing numbers; however, Midway Village+ submitted financial models based on an assumed build out of 1,780 affordable units. Ultimately, at 1,610 or 1,780, Midway Village+ is not proposing the highest number of affordable units under the SLA.

Financial Analysis:
The financial models analyzed by JLL were reflective of Midway Village+ proposing 1,780 affordable units (although only 1,610 were included in their housing summary under the "90-day good faith negotiating period"), with an average level of affordability for those units is at 50.6% of AMI. The unit mix includes 18% Studio units and was the only team to include Studios. They also proposed 34% 1-bedroom units,

21% 2-bedroom units and 27% 3-bedroom units with an average unit size of 719 square feet, which is the smallest average unit size among the three proposals. Midway Village+'s financing strategy for the affordable housing includes LIHTC as the key financing source paired with various other Federal, State, and local housing funds, along with private debt financing. Midway Village+ proposes to deliver the affordable units from multiple developers with "compressed phasing" of approximately 600 to 900 units in years one, four and seven, over a 7-year period. With the exception of project-based vouchers, Midway Village+ is not seeking any direct financing from the City for affordable housing but does assume City support for its financing applications.

Midway Village+ proposed the largest new arena at 500,000 SF with a capacity of 11,500 to 15,500. Midway Village+ proposes to demolish the existing arena when the new arena is substantially complete, meaning that the City risks losing programming opportunities or revenue during construction. Revitate proposes to develop the arena and has not yet determined who the operator would be. Midway Village+'s financing strategy for the arena includes a mix of private equity and debt and requests no City participation in the arena development financing but does request that the City provide a 50% arena event parking revenue share for arena operations.

Midway Village+'s overall project financing strategy also contemplates reimbursement of development impact fees under the Midway-Pacific Community Plan, an EIFD, sales tax increment generated by the project and a share of the project parking revenue. Midway Village+ asks for the City to participate in financing the overall project by providing a tax emption for middle income housing, property tax increment through the EIFD, targeted SDHC funding for affordable housing, sales tax increment to service the private infrastructure investment and City financing and ownership of the parking structure, but with the 50% revenue share previously noted. At this early phase, Midway Village+'s collective asks for City participation are the most impactful to the City among the three proposals.

Operational Analysis:
The Midway Village + team selected Comm 22 for their affordable housing development and The Golden 1 Arena in Sacramento, CA for their arena/stadium development.

Comm 22 – On July 1, 2022 staff visited the COMM 22 project located in the Logan Heights neighborhood of San Diego. Staff met with representatives from MAAC, Bridge Housing, Habitat for Humanity and Malmuth Development. The COMM 22 project is part of a transit-oriented master-planned community that includes the Paseo and Victoria affordable housing developments. Paseo contains 130-units of which 13 are supportive housing and Victoria contains 70 senior housing units. This master-planned community was co-developed by Bridge Housing and MAAC in partnership with the San Diego Unified School District. COMM 22 also includes 17 for-sale row homes built by Habitat for Humanity. COMM 22 was built in response to a Request for Proposals issued by the San Diego Unified School District. The project was developed under a 65-year ground lease with two 10-year and one 5-year options to extend. COMM 22 was built mostly on vacant lots that formerly served as maintenance and storage yards for the school district and presented many physical site issues, such as environmental contamination, underground storage tanks and utility issues. Financial partners included San Diego Unified School District, which provided the land, the U.S Department of Housing and Urban Development, San Diego Housing Commission, California Pollution Control Finance Authority, SANDAG, City of San Diego Redevelopment Agency, Bank of America and Merrill Lynch. Total development costs for Paseo were $56.6M partially funded by money from the City of San Diego Inclusionary Affordable Housing Fund loaned by the San Diego Housing Commission, $28,7M in state multi-family housing revenue bonds,$1.4M State Mental Health Services Act loan, and $9.2M loan from the City's former Redevelopment Agency. The total development costs of Victoria were $28.7M partially funded with $4.1M from HUD Home Investment Partnership Program Funds, $15.5M in state multi-family housing revenue bonds, $10,000 from the San Diego Housing Trust Fund and $4.8M HUD 202 Capital Advance Loan.

Golden 1 Arena – On June 29, 2022 staff visited the Golden 1 Center in Sacramento, California. Staff met with representatives from Revitate and CAA ICON. Golden 1 Center, home of the Sacramento Kings, is located in Downtown Sacramento and sits partially on the former site of the Downtown Plaza shopping Center. Golden 1 is the centerpiece of Downtown Commons, a business and entertainment district, commonly referred to as DOCO. Golden 1 is a multi-purpose indoor arena that started construction in 2014 and officially opened in 2016. The arena was built with capacity for 17,000 and can be expanded to accommodate approximately 19,000. The arena hosts anywhere from 190-205 events per year including concerts, conventions and other sporting and entertainment events. The arena has a robust collection of luxury suites, exclusive clubs, loft suites and premium level seating. The arena was designed to include state of the art equipment including a main videoboard that hangs over the center court and features many amenities which have been designed to attract talent and diverse event promotors. Revitate currently co-owns the Sacramento Kings with their role as principals of the Golden 1 Center and DOCO. Total development costs for Golden 1 Center were approximately $534.6M of which the Sacramento Kings contributed approximately $284M and the City of Sacramento contributed approximately $225M or 47% of the total costs. The City financed the development through the sale of bonds and economic development and parking funds. The City required 1.5M square feet of development in the surrounding area be constructed as part of its lease agreement. The surrounding developments include hotel, office, retail, and open space. Overall, the development of Golden 1 Center has been a success for the revitalization of Downtown Sacramento and has generated over 30,000 local jobs and millions of visitor dollars and income for locals.

The site visit summary for Midway Village + is included in Attachment D.

References:
Midway Village + focused their letters of reference on Bridge, MAAC, Habitat for Humanity, Cruzan and Revitate. Letters were received from National Equity Fund, City Community Capital for MAAC; Cathay Bank, Mission Driven Finance and HCD for Habitat for Humanity; Cigna Investments and Western Alliance Bank for Cruzan; and, Inner Circle Sports for Revitate. Bridge provided a listing of two lender references, Key Bank and JP Morgan Chase and an S&P Global Ratings Report (Attachment F).

Recommendation for Selection
Following the City's site visits, review of reference letters and receiving JLL's analysis, it was clear that, while all of the teams were capable of delivering a project, Midway Rising would not only receive "first priority" under the SLA, but would also be the best partner for the City. Midway Rising was the only team that included representatives from the affordable and market rate housing, as well as the arena partners at all of the site visits and in all of the meetings with staff. They demonstrated a clear and cohesive vision for the full site and stability throughout the process, as they were the only team not to adjust the number of proposed affordable housing units during both the NOA and due diligence processes, and they were the only team that did not need to bolster their team by adding partners during the due diligence phase. Midway Rising also asked the least of the City from a financial participation perspective.

With the SLA priority of the "highest number of units" as the North Star of the NOA process, City staff met again with HCD staff on Friday, August 12, 2022. HCD staff were pleased that the City was recommending selection of the team with the highest number of proposed affordable units and concurred that the City is continuing to appropriately apply "first priority" under the SLA as it moves through the early phases of the dispositions process. On August 22, 2022 City staff followed up with HCD staff to discuss teams submitting unsolicited revised housing numbers outside of the "90-day good faith negotiating period." City staff conveyed the concern that teams submitting unsolicited updates was not negotiating in good faith, especially in the absence of the City asking all the teams to revisit their numbers. The City also conveyed concerns that continuing to reopen the housing numbers in perpetuity could cause delays to this project. HCD staff concurred with City staff that if all of the teams were given the opportunity to update their housing numbers during the "90-day good faith negotiating period" the SLA does not require the City to consider unsolicited updates. Therefore, City staff continues to provide "first priority" to Midway Rising who proposed the highest number of affordable units, at 2,000, at the close of the "90-day good faith negotiating period."

Following the City's meeting with HCD where HCD staff concurred that the City is appropriately applying "first priority" under the SLA to the team with the highest number of affordable units by recommending Midway Rising for selection, staff requested additional letters of reference from Midway Rising for Legends and Zephyr. They include Moelis & Company, Wells Fargo Bank, Goldman Sachs and the City of Frisco, Texas for Legends and C3 Bank, Torrey Pines Bank and the City of Solana Beach, California for Zephyr (Attachment J). Additionally, staff conducted follow-up reference checks by phone that are summarized below and resulted in a demonstrated capacity to deliver the proposed project and a track record of success.

CHELSEA INVESTMENT CORPORATION

The Richman Group Affordable Housing Corporation:
The Richman Group stated that they have worked with Chelsea for 25 years and have partnered with them on numerous transactions in San Diego, Los Angeles and Bakersfield, California. They stated that Chelsea has an excellent track record and they consider them to be one of the top affordable housing developers in the country. Amongst other reasons, they indicated a preference in working with Chelsea due to its conservative underwriting and commitment to making sure that the deals they bring forward work and as proven success highlighted that Chelsea's entire portfolio has less than a 2% vacancy rate and that each one of their projects is risk rated A under the affordable housing rating criteria (Fitch Ratings). The Richman Group stated that there have been no material issues with any of the projects they have worked with Chelsea on and indicated that if any issues did arise, Chelsea was able to cover them through contingency or deferral of development fees. They stated that "There is no deal that they have not been able to cover, which is pretty remarkable and is a testament to their experience and how they underwrite deals." The Richman Group identified the Weingart Tower Development in Los Angeles, a 19-story high rise development in LA's Skid Row that will provide 278 permanent supportive housing units as a $160M marquee project they are currently working with Chelsea on and providing $75M in low-income housing tax credit equity investment for. In conclusion, The Richman Group had no reservations about recommending Chelsea for leading the affordable housing component of the project.

US Bank CDC:
US Bank CDC has had a relationship with Chelsea for 25 years and has invested in a broad spectrum of projects with Chelsea with investments in over $200M in construction, term and equity financing. US Bank stated that they "do not worry about Chelsea's projects coming to fruition" because they have a proven track record, are timely and good with budget. They stated that "not once have they come to us if there are any overruns. They just fix the problem and that is the kind of partner we are looking for." US Bank highlighted Chelsea's ability to navigate through complex funding structures and specifically pointed out the Alpha Square Project in Downtown San Diego as an example. They indicated that this project was one of the first to use the 4% and 9% low-income housing tax credits during a time when they were new and "trickier" to navigate. US Bank stated that Chelsea's specialty was working within the master development structure and had no concerns with recommending Chelsea to deliver on the affordable housing components for this project.

Banner Bank:
Banner Bank's relationship with Chelsea has been since 2007. Banner Bank stated that they have closed on four projects with Chelsea. Banner Bank highlighted the Apollo Senior Project within the Poway Commons development in Poway as a key project for which Banner Bank has provided financing and recently opened in 2022. Banner Bank stated that they have been impressed with how Chelsea works with master plan developers and consider this to be their "niche". Banner Bank stated that they "will continue to more deals with them" because of their timely delivery of projects, thorough and experienced management team, ability to solve problems and their commitment to "delivering what they say they will

deliver”. Overall, Banner Bank had no reservations with recommending Chelsea as the affordable housing developer for the project.

ZEPHYR

Westbrook Partners:
Westbrook Partners stated that they are a privately owned global institutional real estate investment company that has had a relationship with Zephyr partners for 10 years. They stated that they have worked specifically with Zephyr on three projects totaling over $350M in development value. Westbrook stated that they Zephyr has an excellent track record and is a “top notch” market-rate housing developer. Westbrook stated that Zephyr has excellent leadership with a wealth of experience and are “some of the most genuine people Westbrook has worked with”. Westbrook highlighted that Zephyr has experience with a variety of market-rate product types including high-rise, podium construction, townhomes and single-family master developments. Westbrook specifically identified the three following projects that they were involved with and completed: The Park at Bankers Hill, a 60-unit high-rise condominium project completed in 2018; Summer House a collection of 35 condominium units in Carlsbad completed in 2015 and South Cove containing 168 residences a new public park and public art in the City of Dana Point completed in July 2022. Westbrook Partners stated that Zephyr has a robust team and had not encountered any issues with the management and delivery of the projects. Westbrook stated that they have had a lot of partners over the years and will continue to do business with Zephyr as opportunities arise. Westbrook had no reservations and recommended Zephyr as a good development partner and stated that “if they say they will do it, they will.”

LEGENDS ARENA PARTNERS

***G*oldman Sachs:**
Goldman Sachs was involved in the creation of Legends as an entity in 2008 and have since been in a business relationship. Goldman Sachs was involved in the financing of Yankees Stadium and Levi’s Stadium, home of the San Francisco 49ers with Legends. Goldman Sachs indicated they have done over 40 to 50 transactions with Legends. Goldman Sachs pointed out that it is not standard practice for them to provide letters of reference and having provided one to a municipality was a “big deal.” However, given the business relationship with Legends they considered it appropriate and could stand by their reference. Goldman Sachs stated that Legends CEO is “incredible and understands all aspects of the business”. Goldman Sachs stated that Legends is a “360-degree company who delivers, has depths of experience and is the premier company to work with in the sports industry.”

City of Frisco, Texas:
The City of Frisco stated that the partnership with Legends on the development of The Star is “the best partnership” they have in Frisco, specifically because Legends has “quality people who know what they are doing”. The City of Frisco indicated that Legends is communicative and consistent and have been a good partner with the City from the very beginning. They stated that Legends has been involved in every facet of the development starting from the initial planning stages through construction. They stated that one of the things that stands out to them in comparison to their other partners is their communication. They stated their communication is robust and done early. “The come to the table from the start.” Finally, they stated Legends “was involved from day one, are still active in operations and the proof of their good partnership is in the fact that they have executed and delivered beyond what their obligations under their agreements with the City of Frisco have been on a regular basis.”

In summary, the feedback received was positive and confirmed that the recommended team has the financial and operational wherewithal to deliver this important project.

<u>Next Step: Exclusive Negotiating Agreement</u>
If Council approves staff’s recommendation to select Midway Rising as the successful respondent to the NOA, Council authorization is requested for the Mayor or designee(s) to negotiate and enter into an ENA

with Midway Rising on behalf of the City. The purpose of the ENA will be to establish a framework for negotiation of the ultimate terms of a Master Development Agreement and Ground Lease for the redevelopment of the property.

Negotiations will be based on the program and development concept generally set forth in Midway Rising's responses to the NOA and subsequent RFI. During the negotiating period both parties will negotiate in good faith towards a Master Development Agreement, containing the actual terms and conditions for the ultimate ground leasing and redevelopment of the Property. The ENA will require the City and the developer to negotiate diligently and in good faith toward completion of a DA during the negotiating period, but the ENA will not grant Midway Rising any rights in the property, nor will it commit the City to grant any rights in the Property to Midway Rising.

The ENA will be negotiated to include standard essential terms and at a minimum the following key terms:

Term: Two (2) years with up to two one (1) year options to extend the term of the ENA at the City's sole and absolute discretion.

Schedule of Performance: A detailed schedule of performance with deadlines for the developer's completion of a series of key milestones during the negotiating period. Completion of these milestones will provide Midway Rising and the City with necessary information to better determine the feasibility of developing the proposed project on the Property and is expected to ultimately be used for developing a final development program. These milestones include the following:

- Completion of physical due diligence
- Updated Pro forma and Financing Plan
- Updated and comprehensive financial feasibility analysis
- Project description and architectural program sufficient to commence environmental review
- Environmental Review (CEQA and/or NEPA)
- Community engagement plan

Termination Rights: Either the City or developer will have the right to terminate the ENA in its respective sole and absolute discretion if at any time it determines that the project is not physically of financially feasible or it decides for any or no reason that it no longer desires to proceed with negotiations.

Costs and Expenses: During the negotiating period, the City and developer will each be responsible for its own costs and expenses incurred in connection with the negotiations and other activities undertaken under the ENA.

Conclusion

The City is proud to have righted the wrongs of the prior administration by running a clean and transparent process in accordance with SLA. From the beginning of the NOA process, Midway Rising has consistently shown that it understands the priorities of the SLA, Mayor Gloria, Council and Staff by maximizing affordable housing, proposing a world-class entertainment district that will provide San Diego with "big City energy" as well as offering middle income and market rate housing. Staff looks forward to the next step in this important process and is committed to maintaining transparency by providing the Council with public updates throughout the ENA process and ultimately seeing Midway Rising deliver this important project to the Midway community and "for all of us."

City of San Diego Strategic Plan:

Staff's analysis of the responses, due diligence performed and its recommendation for selection directly relate to the Strategic Plan's Operating Principles of Trust and Transparency by providing the Council with the "data to make better-informed decisions, answer questions and build trust with the public." Additionally, by making a selection in accordance with the SLA of the team with the highest number and make-up of affordable units aligns with the Strategic Plan's Priority Area: Create Homes for All of Us which endeavors to "ensure that every San Diegan has access to secure, affordable housing."

Fiscal Considerations:
There are no direct fiscal considerations associated with selecting Midway Rising under the NOA or authorizing negotiation of and entry into an ENA.

Charter Section 225 Disclosure of Business Interests:
Charter section 225 does not apply to the requested action of selecting Midway Rising under the NOA or the proposed exclusive negotiation agreement, which is an agreement to engage in negotiations during a defined time period and not a contract that will not result in the expenditure or receipt of any City funds or the transfer of any interest in City property. For the purposes of transparency, the recommended developer's team consists of:

- Brad Termini, Zephyr Investor, LLC & Zephyr SD, LLC (entity to be formed);
- Jim & Lyon Schmid, Chelsea Investment Corporation & Chelsea SD Development, LLC (entity to be formed);
- Sixth Street Capital, LLC, Jones Family of the Dallas Cowboys, Steinbrenner Family of the New York Yankees; Legends Hospitality LLC and Legends SD Development, LLC (entity to be formed)

Environmental Impact:
This activity (making a selection of a development team under City's "Midway Notice of Availability" and authorizing negotiation and entry into an ENA) will not, on its own accord, result in a physical impact on the environment. Thus, this activity is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) as the activity is covered by the common sense exemption that CEQA applies only to projects 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. Pursuant to CEQA Guidelines Section 15352(a) approval of this activity does not constitute approval of any future project that will occur on the Property. The future project will be subject to CEQA review in accordance with the City's Land Development Code and CEQA Guidelines Section 15004, which provides direction to lead agencies on the appropriate timing for environmental review.

Climate Action Plan Implementation:
The City's recently adopted Climate Action Plan included a commitment that future development on City-owned property will require and reward proposals based on decarbonization and other CAP goals" (pg. 49). The City intends to work with Midway Rising during the ENA process to align the project with the Climate Action Plan and model the sustainable, climate resilient transit-oriented development we want to see going forward.

Equal Opportunity Contracting Information (if applicable):
Not applicable, at this time

Previous Council and/or Committee Actions:
This item was heard at a Special Land Use and Housing Committee meeting on September 8, 2022. The Committee voted 3 – 0 with Councilmember Moreno absent to move staff's recommendation with the additional requirement that City staff, at a minimum, provide City Council with quarterly informational updates to include progress made to date, completion of milestones, anticipated next steps and to receive additional input.

Shortlist to HomeTown SD, Midway Rising, Midway Village+: City Council – May 23, 2022, Land Use and Housing – April 21, 2022

Declaration of Surplus Property and Development Condition: City Council – September 21, 2021 and August 3, 2021, Land Use and Housing – July 23, 2021

Planning Commission Action:
N/A

Key Stakeholders and Community Outreach Efforts:
The SLA NOA process does not include an outreach component; however, staff has engaged with the Midway Planning Group on several occasions throughout the process to ensure they are aware of the milestones in the process, including the docketing of this item.

The community provided valuable feedback during the LU&H and Council meetings of April 21, 2022 and May 23, 2022, respectively. Additionally, Midway Rising will be responsible for implementing a community engagement plan as one of the performance milestones in the ENA, which will allow the community to weigh in as the selected team finalizes their development program.

Attachment A – May 23, 2022 staff report recommending shortlist of three teams
Attachment B – August 15, 2022 cover memorandum and accompanying report from JLL
Attachment C – June 26, 2022 Request for Information
Attachment D – Site Visit Summaries
Attachment E – HomeTown SD RFI Response
Attachment F – Midway Village + RFI Response
Attachment G – Midway Rising RFI Response
Attachment H – July 21, 2022 letter from ASM Global
Attachment I – June 28, 2022 press release regarding CAA ICON
Attachment J – Supplemental letters of reference from Midway Rising
Attachment K – August 21, 2022 letter from HomeTown SD

Penny Maus	Jay Goldstone
Department Director	Chief Operating Officer