

## **Ground Rules for 2018 Stanford University General Use Permit Development Agreement Negotiations**

The County of Santa Clara (County) and Stanford University (Stanford) will comply with the following ground rules for conducting negotiations for the 2018 Stanford University General Use Permit (2018 GUP) Development Agreement:

### **RECITALS**

- A. Stanford University submitted a Development Agreement application to the County in response to the Board of Supervisors' (Board) consideration of a Housing Impact Mitigation Fee and Inclusionary Housing Ordinances (Housing Ordinances), which were adopted by the Board. On September 25, 2018 (Item No. 15), the Board referred to the Administration the preparation of a report on how to structure a process for Development Agreement negotiations with Stanford University for discussion at the October 16, 2018 Board of Supervisors meeting.
- B. On October 16, 2018 (Item No. 9), the Board directed the Administration to commence Development Agreement negotiations with Stanford University and to engage in a transparent and public process to understand the key issues from the community that may be addressed in the Development Agreement. The Board also appointed an Ad Hoc Committee of Supervisor Cindy Chavez and Supervisor S. Joseph Simitian to represent the County during negotiations.
- C. The County wants to inform the community about the Development Agreement negotiation process and obtain input from the public about possible community benefits to include in the Development Agreement and to that end, the County's community outreach approach includes: public input meetings near Stanford; stakeholder meetings with city officials of surrounding jurisdictions; online updates and resources to keep the public informed; and, emails to the 2018 Stanford GUP email list group and other stakeholders.
- D. The purpose of the Ground Rules is to provide transparency to the public and understanding between County and Stanford on the rules governing the Development Agreement negotiation process.

**NOW THEREFORE**, the County and Stanford incorporate the above Recitals into the Ground Rules.

- 1. The Negotiating Committee for the County is Supervisor Cindy Chavez and Supervisor S. Joseph Simitian with support from the Negotiating Team made up of Scott Strickland, Kristina Loquist, Sylvia Gallegos, Jacqueline Onciano, Rob Eastwood, Geoff Bradley, Kavitha Kumar, Elizabeth Pianca, and Greg Stepanicich. The Negotiating Committee for Stanford is Robert Reidy, Catherine Palter, and Jean McCown with support from the Negotiating Team made up of Barbara Schussman and Sean Morley. The County

Negotiating Committee and Team and Stanford Negotiating Committee and Team are individually referred to herein as “party” and collectively as the “parties.”

2. The Point-of-Contact for the County is Sylvia Gallegos. The Point-of-Contact for Stanford is Catherine Palter. Written communications relating to administrative matters pertaining to the negotiations will be between the County Point-of-Contact and Stanford Point-of-Contact, except as otherwise agreed upon by the parties. For example, it may be efficient for the attorneys to exchange drafts before sharing language more broadly with other parties.
3. Negotiations will be scheduled with the mutual agreement of both Negotiating Committees with the first negotiation session to be held on November 30, 2018 and the last negotiation session to be held by April 15, 2019, subject to extension by mutual agreement of the parties. The period when negotiation sessions are held will be referred to as the “Negotiation Period.” All negotiations will be held at the County Government Center, 70 W. Hedding, San José, CA. The parties will endeavor to hold negotiation sessions, which are anticipated to last approximately three hours per negotiation session. If the parties mutually agree to extend the negotiations, the parties will revisit these ground rules to determine whether any changes are warranted.
4. At least 24-hours prior to the scheduled negotiation session, each Point-of-Contact will provide to the other Point-of-Contact a list of persons from its party attending the negotiation session. The absence of a party member will not require a cancellation of a negotiation session; however, if Robert Reidy is absent from any negotiation session the County reserves the right to cancel that negotiation session prior to or at the start of the negotiation session. Either party may bring additional supporting persons to the negotiations with at least 24-hours advance notice as long as their expertise is relevant to the issues under discussion and provided that the supporting persons only attend that portion of the negotiation session for which their expertise is relevant for the issue under discussion.
5. The agenda for each negotiation session will be determined by mutual agreement of the Points-of-Contact, and the County will provide the agenda to Stanford at least 48 hours prior to the scheduled negotiation session. The agenda will include those specific issues for discussion identified at the prior negotiation session.
6. If either party needs to cancel a negotiation session, it will provide at least 24-hour notice to the other party. Notice will be given by e-mailing and phoning the other party’s Point-of-Contact.
7. The parties will come to each negotiation session prepared to discuss specific issues. At the end of each negotiation session, the parties will establish an agenda for specific issues to be discussed during the next negotiation session. The parties also will identify the outstanding issues that each party will further evaluate or discuss internally before the next negotiation session. The parties acknowledge that the discussion of specific issues may be iterative and may require reconsideration during the Negotiation Period.

8. Each party may request the other party to present a written proposal or documents on a specific issue to be discussed.
9. Each party has the right to recess for a caucus during a negotiation session. The party calling the recess will provide an estimate on the length of time involved for the caucus.
10. No electronic recording or transcript will be prepared of the negotiation sessions, and there will be no official minutes or records. Any form of electronic recording is prohibited during any negotiation session.
11. Negotiation of the Development Agreement will take place only between the County Negotiating Committee and Negotiating Team and Stanford Negotiating Committee and Negotiating Team as identified by these Ground Rules. During the Negotiation Period, no official, employee, representative, or agent of Stanford will contact any County elected or appointed official, employee, representative, or agent who is not a member of the County Negotiating Committee or Negotiating Team for the purpose of negotiating the Development Agreement, unless agreed to by the County Point-of-Contact. Similarly, during the Negotiation Period, no elected or appointed official, employee, representative, or agent of the County will contact any Stanford official, employee, student, representative, or agent who is not a member of the Stanford Negotiating Committee or Negotiating Team for the purpose of negotiating the Development Agreement, unless agreed to by the Stanford Point-of-Contact. Notwithstanding the foregoing, during the Negotiation Period both parties may communicate within their own organization on the negotiations as long as such communications remain within each organization. This provision does not preclude the parties from contacting or being contacted by interested parties, including, but not limited to, public agencies and local governments in Santa Clara and San Mateo counties, non-profit organizations, community members, and Stanford students, employees, and residents, to discuss potential Development Agreement terms, as long as the parties do not disclose to such interested parties the positions taken during the negotiations by the opposite party to the negotiations or engage in discussions resulting in a deal between the party and interested party that would be presented as a proposal during the Negotiations Period.
12. Any tentative agreement on any specific issue or set of issues discussed during the negotiation session will be reduced to writing following the negotiation session. Negotiating team members may meet between negotiation sessions to draft the tentative agreement for any specific issue or set of issues. Any tentative agreement on any specific issue or set of issues is not binding on any party until a final Development Agreement is prepared and fully executed by the County and Stanford.
13. The Development Agreement template prepared by the County will be provided to Stanford for Stanford's review. If the template is generally acceptable to Stanford, the template will be used for the final Development Agreement subject to the negotiation of specific terms by the parties.

14. During the Negotiation Period, either party may respond to inquiries from the media on the status and topics of the negotiations as long as the parties do not disclose the substance of the negotiations and positions taken by the parties. Further, during the Negotiation Period, the County's Point-of-Contact may prepare a monthly status report to the Housing, Land Use, Environment and Transportation (HLUET) Committee that provides a report on the status and topics of the negotiations, but that does not disclose the substance of the negotiations and positions taken by the parties. The County may also hold public meetings during the Negotiation Period to receive input on the Development Agreement. During each negotiation session, the parties intend to engage in a meaningful discussion on the effectiveness of communications as outlined in this provision. At the conclusion of the Negotiation Period, any tentative agreement on any specific issue or set of issues that the parties mutually authorize for public disclosure will be jointly provided by the Point-of-Contact for each party to the media, community stakeholders, and any other interested party. In addition, after the conclusion of the Negotiation Period, each party may disclose, discuss and provide information about that party's own offers or demands (including offers or demands that were not accepted by the opposite party), and the parties may discuss the negotiations with any elected official of the County. The goal of this provision is to ensure that the negotiations occur in a fair and respectful manner. The failure of either party to comply with the terms of this provision authorizes the other party to waive its obligations under this provision.
15. The 2018 General Use Permit application will continue to be processed by the County during the negotiations. Failure of the parties to reach agreement on a Development Agreement will not prejudice the County's processing and consideration of the 2018 General Use Permit application by the Planning Commission and Board of Supervisors. Any statements, discussions, or information relating to the 2018 General Use Permit application that occur during the negotiation of the Development Agreement will not be used as grounds by Stanford to disqualify any member of the County's Negotiating Committee during or after consideration and action by the Board of Supervisors on the 2018 General Use Permit application, or to otherwise challenge the County's action on the 2018 General Use Permit application on the basis that Stanford was denied a fair hearing. Further the parties agree that any proposals, statements, discussions, or information offered or provided during the Development Agreement negotiations will not be used by either party against the other party in any litigation between the parties concerning the 2018 General Use Permit or any other land use entitlements or permits applied for by Stanford for its property.