

**RESOLUTION NO. 15-080, SERIES 2015**

**RESOLUTION ADOPTING NEGOTIATION PROTOCOL  
FOR THE DEVELOPMENT AGREEMENTS  
FOR INNOVATION CENTER(S) AND NISHI GATEWAY**

WHEREAS, the City released a Request for Expressions of Interest for an Innovation Park and has received two proposals; and

WHEREAS, the City, the property owner, the University of California at Davis, and Yolo County have been working together to explore development of the Nishi Gateway property as a Mixed-Use Innovation District; and

WHEREAS, the Council Innovation Center Subcommittee has developed, and the City Council has approved, a set of "Guiding Principles" to better define community values and clarify community expectations for evaluating and guiding refinement of proposed Innovation Centers); and


WHEREAS, the Council wishes to establish guidance to applicants, staff, and community regarding protocols and expectations for the Development Agreement negotiation process.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Davis hereby adopts the Negotiation Protocol for Development Agreement(s) for Innovation Center(s) and Nishi Gateway, as set forth in Exhibit A, attached hereto.

PASSED AND ADOPTED by the City Council of the City of Davis on this 2nd day of June, 2015, by the following vote:


AYES: Davis, Frerichs, Lee, Swanson, Wolk

NOES: None



Daniel M. Wolk  
Mayor

ATTEST:



Zoe S. Mirabile, CMC  
City Clerk

## **Draft DA Negotiation Proposal – Innovation Centers and Nishi Gateway**

### **General Principles**

1. A DA is a contractual agreement between the City and the developer to achieve additional certainty for the project in exchange for additional benefits for the city/community (beyond baseline requirements defined those required for consistency with state and local laws, satisfaction of regulatory requirements, and implementation of mitigation measures). The DA requires willing parties and beneficial outcomes.
2. The DA will not be used to achieve regulatory compliance – the applicant must do what they are required to do and the benefits of a DA will not be used to incentivize baseline performance on the project.
3. The DA will achieve, in quantifiable and specific ways, the Council-adopted **Guiding Principles for Davis Innovation Center(s)**
4. The parties will negotiate in good faith – the intent is to have the DA terms be a part of the success of the project, not get in the way of the success of the project. Accurate and transparent information regarding the developers proforma will be respected in the negotiations.
5. All parties agree that the success of the project is a mutually held goal.
6. There are two parties in the negotiation – the developer and the City. Agreements to which the developer agrees that provide other benefits to other parties will not be considered in the negotiations.

### **Protocols**

1. An assigned staff team (including the City Attorney) will be the principal negotiators with the applicant. The main focus of this team will be the community benefit deal points.
2. The Council Subcommittee will provide guidance and feedback but not be directly involved in the negotiations nor have direct contact with the applicant regarding the negotiations.
3. Other Council members will not be directly involved in the negotiations nor have direct contact with the applicant regarding the negotiations.
4. Staff and the Council Subcommittee will report back to Council with updates and to seek guidance as necessary.
5. Council members pledge to direct community communications on the negotiations back to the Council IC Subcommittee
6. Council members pledge to direct applicant back to the negotiating team if applicant seeks engagement on any element of the Development Agreement.

### **Contract Structure**

1. The DA contract will utilize a template developed by the City Attorney
2. The community benefit deal points will be developed by the negotiating team and finalized by the City Attorney, in cooperation with the applicants attorney.

### **Co-Equal Priorities for Community Benefit Deal Points – The DA does not supplant the expectation that projects will accomplish the objectives set forth in the Guiding Principles.**

1. Strive for amazing and iconic design and physical features
2. Accomplish innovation in design, innovation in infrastructure, innovation in operations innovation in culture
3. Contribute positive fiscal and economic outcome for city/community
4. Solve existing community problems; contribute to existing successes; support enhancement of what is already in place
5. Extend the benefits of the project to the entire city in a broad, inclusive way