



## Legislation Details (With Text)

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**Title:** Action on Amendment No. 5 to the Exclusive Negotiation Agreement and Amendment No. 3 for the Amended and Restated License Agreement with Habitat for Humanity East Bay / Silicon Valley for 3575 De La Cruz Boulevard

**Sponsors:**

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**Attachments:** 1. Habitat DeLaCruz Exclusive Negotiation Agreement ENA, 2. Habitat 1st Amendment ENA, 3. Habitat 2nd Amendment ENA, 4. Habitat 3rd Amendment 3rd ENA, 5. Habitat 4th Amendment ENA, 6. DRAFT Habitat 5th Amendment ENA, 7. DRAFT Amendment No. 3 Amended and Restated License Agreement

Date	Ver.	Action By	Action	Result
12/6/2022	1	Council and Authorities Concurrent Meeting	Approved	Pass

## REPORT TO HOUSING AUTHORITY

### SUBJECT

Action on Amendment No. 5 to the Exclusive Negotiation Agreement and Amendment No. 3 for the Amended and Restated License Agreement with Habitat for Humanity East Bay / Silicon Valley for 3575 De La Cruz Boulevard

### COUNCIL PILLAR

Promote and Enhance Economic, Housing and Transportation Development

### BACKGROUND

The City selected Habitat for Humanity East Bay / Silicon Valley (Developer) in 2018 through a competitive process as the developer for a City-owned affordable housing site at 3575 De La Cruz Boulevard. On April 9, 2019, the City Council approved an Exclusive Negotiation Agreement (ENA) with the Developer for the site. (Attachment 1)

The proposed project is the construction of 15 new units (previously 13 units) of affordable homeownership housing at the site, available to a diverse range of mixed income families earning between 50 percent (previously 60 percent) and 120 percent of the Area Median Income (AMI). The units would be developed as a mix of townhomes and flats, using a cohesive design that maximizes cost efficiencies while providing homes that are attractive, energy efficient, and durable. The conceptual site plan is intended to maximize the number of affordable homes while strategically addressing various site constraints, including positioning the new homes to minimally impact the adjacent property owners and provide a transition to the industrial park to the south.

The ENA provided an initial negotiating period of 18 months, commencing on the date the Agreement was fully executed, which could be extended for two additional periods of six 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. Both six-month extensions have been authorized by the City Manager with the first authorized. As allowed under the ENA, the City Manager previously granted two six-month extensions for the ENA (Amendment No. 1 and Amendment No. 2) on December 14, 2020 and the second on July 12, 2021, respectively. (Attachments 2 and 3) Since that time, two additional extensions were signed extending the ENA until December 30, 2022. (Attachments 4 and 5)

### ***Site Description***

The Property is currently a vacant 0.7-acre site. The site was previously developed with a City Fire Station, which was demolished in 2010. An 80-foot PG&E easement containing transmission lines supported on top of 100-foot tall PG&E lattice towers is located along the Property's eastern edge. Surrounding land uses include light industrial buildings to the south, single-family residences to the east and north, and Montague Park to the west on the opposite side of De La Cruz Boulevard. Golden State Baptist College is located to the southwest of the project site, also fronting on De La Cruz Boulevard adjacent to Montague Park.

### ***Request for Proposals (RFP)***

Prior to the issuance of an RFP, the City conducted preliminary outreach for the future development of the property as an affordable housing site. Input from the outreach was incorporated into the RFP. The City then issued an RFP on June 13, 2018 and selected the Developer in October 2018 as the result of the RFP process. The interview panel made a unanimous decision to select Habitat for Humanity East Bay / Silicon Valley determining that their proposal fully addressed the RFP goals.

### **DISCUSSION**

Habitat for Humanity is requesting a Fifth Amendment to their ENA with the City to grant an extension for six months. This will allow the Developer additional time to prepare a Disposition and Development Agreement (DDA) for Council consideration in 2023. The request also includes an update to the City's license agreement with Habitat for Humanity. The license agreement provides temporary right of access and sets terms around access to the property for activities related to due diligence such as conducting property surveys, geotechnical, environmental and utility studies. The license agreement must also be amended to allow access through the proposed extension to the ENA period.

In recent months, the project has made significant progress, including a project redesign to increase the number of ownership units from 13 to 15, and to add very low income units into the project, while also working towards a commitment for County Measure A funding, advancing the environmental review process, and preparing for public hearings for entitlements in early 2023. Staff is anticipating Planning Commission review in early 2023. Full entitlements and a DDA are tentatively scheduled for Council consideration in spring 2023.

Implementation of the Developer's proposal for 3575 De La Cruz Boulevard would achieve the City's objective for the development of a mix of affordable housing project types throughout the City, providing a relatively unique-small scale, family-oriented development. As proposed, the project achieves many of the goals and objectives of the City's RFP for the property, including alignment with community interest in terms of the development program and City standards for financing and affordability. The Developer was also selected based on their well-established history in the

production of affordable housing.

While the Developer has experienced some setbacks, they have also made steady progress toward the development of the site. The following represents a synopsis of the activities performed by the Developer in recent months:

May - October 2022:

- Revised proforma to accommodate Measure A funding guidelines resulting in more units and deeper affordability than previously planned for
- Refined plans and submitted initial plan for review
- Responded to comments provided by the City
- Hired CEQA consultant and commenced work on the CEQA statutory exemption

Conclusion

Staff is recommending the City Council approve Amendment No. 5 to the ENA and Amendment No. 3 to the Amended and Restated license agreement with Habitat for Humanity East Bay / Silicon Valley to allow more time to complete due diligence, the Planning Commission public hearing, and to bring forward a Disposition and Development Agreement (DDA) to Council for consideration within the next six months. (Attachments 6 and 7)

**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 through repayments of loans.

**COORDINATION**

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

**PUBLIC CONTACT**

The project will continue to engage 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) <<mailto:clerk@santaclaraca.gov>>.

**RECOMMENDATION**

Approve and authorize the City Manager to execute Amendment No.5 to the Exclusive Negotiation Agreement (ENA) and the Amendment No. 3 to the Amended and Restated license agreement with Habitat for Humanity East Bay / Silicon Valley for the development 3575 De La Cruz Boulevard.

Reviewed by: Andrew Crabtree, Director of Community Development  
Approved by: Rajeev Batra, City Manager

**ATTACHMENTS**

1. Habitat-DeLaCruz Exclusive Negotiation Agreement (ENA)
2. Habitat 1<sup>st</sup> Amendment ENA
3. Habitat 2<sup>nd</sup> Amendment ENA
4. Habitat 3<sup>rd</sup> Amendment ENA
5. Habitat 4<sup>th</sup> Amendment ENA
6. DRAFT Habitat 5<sup>th</sup> Amendment ENA
7. DRAFT Amendment No. 3 Amended and Restated License Agreement