



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: February 1, 2016

Approved

Date

2/12/16

COUNCIL DISTRICT: 3

SUBJECT: APPROVAL OF AN AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT AND A FUNDING COMMITMENT FOR THE 868 DELMAS AVENUE DEVELOPMENT TO HABITAT FOR HUMANITY

RECOMMENDATION

- (a) Adopt a resolution:
- (1) Approving an Amended and Restated Disposition and Development Agreement for the 868 Delmas Avenue development with Habitat for Humanity East Bay/Silicon Valley ("Habitat" or "Developer"), the resulting entity from a merger of Habitat for Humanity Silicon Valley and Habitat for Humanity East Bay; and
 - (2) Approving a funding commitment for a conditional grant of up to \$258,000 of Low and Moderate Income Housing Asset Funds to Habitat for the 868 Delmas Avenue development.
- (b) Adopt the following 2015-2016 Appropriation Ordinance amendments in the Low and Moderate Income Housing Asset Fund:
- (1) Increase the Housing Loans and Grants appropriation to the Housing Department in the amount of \$258,000; and
 - (2) Decrease the Housing Project Reserve appropriation in the amount of \$258,000.

OUTCOME

Approval of the recommended actions will enable the Developer to construct and sell a single family house at 868 Delmas Avenue to a very-low income family earning less than 50% of Area Median Income ("AMI").

BACKGROUND

As part of the Fiscal Year 2006-2007 budget process, the City Council approved the expenditure of \$125,000 for the acquisition of a City-owned property on the east side of Delmas Avenue, between Jerome Street and Fuller Avenue, from the Low- and Moderate-Income Housing Fund (the "20% Fund) for the purpose of affordable housing development. In August, 2006, the administration of the property was transferred from the Public Works Department to the Housing Department.

On February 6, 2007, the City Council approved a Disposition and Development Agreement between the City and Habitat for Humanity Silicon Valley that provided for the transfer of City-owned property at 868 Delmas Avenue to Habitat for Humanity Silicon Valley ("Original Developer") to develop one single-family home affordable to a very low-income family. The City and the Original Developer entered into the Disposition and Development Agreement (DDA) on February 1, 2008. The Original Developer merged with Habitat for Humanity East Bay on July 1, 2012 (collectively, "Habitat").

Development of the Site was significantly delayed because after Habitat took ownership of the property, the soil was found to be highly contaminated. The cost to mitigate the contamination was \$258,000. The Developer was able to obtain a grant to finance the cost of clean-up from Wells Fargo Bank. The Site has been cleaned and is ready for development of a residence; however, total development cost increased significantly due to clean-up of the contamination.

ANALYSIS

If these actions are approved, Habitat will construct a one-story single family home of approximately 1,197 square feet with three bedrooms and two bathrooms. The home is required to be sold to a very low-income family earning not more than 50% of AMI, which is not more than \$53,150 income per year for a 3-bedroom home. The home will be sold at a purchase price affordable to a family at 50% AMI, currently \$148,000. In addition to taking out a long-term fixed rate commercial mortgage loan of \$148,000, the buyer also will donate 500 hours of 'sweat equity' to the construction of this home or another being built by Habitat as part of the Habitat program. The buyer will also go through financial literacy training to improve their credit and enhance their budgeting skills. In this way, Habitat promotes asset building through sweat equity to families who otherwise could never buy a home in Silicon Valley.

The City will place a 45-year affordability restriction on the property that ensures that the home will be restricted to a family with an income of no more than 50% of AMI for this length of time. After the restriction expires, and if the property ultimately sells for fair market value, the owner would receive back the sales price of the home at the time of purchase by the owner increased by the percentage increase in the Area Median Income from the purchase date to the date of sale plus the cost of any capital improvements they made to the property. The owner's repayment obligation will be documented under a promissory note payable to the City and will be secured by a recorded deed of trust.

Requested Actions

The first action is to amend and restate the original DDA. These changes are necessary to accommodate the delays due to site contamination remediation, and to document the change in Habitat's ownership legal entity. The Amended and Restated DDA provides a new schedule of performance that requires the home's construction to commence on or before April 30, 2016, and to complete no later than December 31, 2016.

It is also recommended that the City provide a grant of \$258,000 to be used for construction costs. These funds are required to cover the gap in financing for construction of the home after obtaining funds from other sources. This amount of funding is equivalent to the additional costs required by the project for contaminated soil remediation. It was the City's intention to provide Habitat with a clean site that was ready for development. Funding for the clean-up would have been provided by the City, however, the City did not have the funds available at the time.

The total development cost was approximately \$258,000 higher than expected due to the unexpected need to remediate toxics on the site.

The City has proceeds from a returned City capital grant that must be spent promptly. The hard cost uses on 868 Delmas are eligible expenses for this capital grant and provide the City with the means to spend these funds prior to the expenditure deadline. The grant will reduce the amount of fundraising that Habitat would otherwise have to do to get this home built.

The economic viability of Habitat housing projects is dependent on City financial assistance, other grants, and donated labor and materials. Under the original DDA, the City provided the Developer with assistance by transferring the site to the Developer at no cost. The purchase price to the City for the land was \$120,000. Total cost of the development is \$839,341. The relatively high cost of development is attributable to the unanticipated soil contamination.

Approximate permanent sources of financing are as follows:

- Habitat Contribution (including the grant from Wells Fargo Bank)	\$288,341
- Home Sale	148,000
- Federal Home Loan Bank Affordable Housing Program grant	25,000
- City of San José land grant	120,000
- City of San José construction grant	<u>258,000</u>
Total	\$839,341

EVALUATION AND FOLLOW-UP

The Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If the recommended actions are approved, the 868 Delmas Avenue development would be included in these reports.

POLICY ALTERNATIVES

To arrive at this proposal, staff considered the following options:

Alternative #1: Deny the requested funding commitment.

Pros: Funds may be provided to other housing developments.

Cons: An affordable home must go forward on this site, as former 20% funds were already expended to acquire the site. Habitat is the only local developer that builds assets for very low-income homebuyers. It is very unlikely that a different affordable housing developer would be willing to develop a single family house on this site, and these funds are necessary in order to complete construction.

Reason for not recommending: Habitat has the demonstrated ability to produce for-sale homes to very low-income households, and is ready to proceed with construction after many years of delay.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the February 23, 2016, City Council meeting.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with: the City's *Envision 2040 General Plan*, *The 2014-23 Adopted Housing Element*, and the City's current *Housing Investment Plan* in that it increases the supply of affordable housing to very low-income residents and will help the City to meet its Regional Housing Needs Allocation goals.

COST SUMMARY/IMPLICATIONS

1. **COST OF DEVELOPMENT:**

<u>DEVELOPMENT USES</u>	<u>AMOUNT</u>
Site Acquisition	134,154
Hard (Construction) Costs	545,239
Soft (Financing & Other) Costs & Reserves	159,948
TOTAL	\$839,341

2. **SOURCE OF FUNDING:** The City of San José will fund \$258,000 of the \$839,341 cost from the Low and Moderate Income Housing Asset Fund. In addition, the City has already provided a land grant to Habitat valued at \$120,000. The remaining funding will be provided by Habitat, the Homebuyer, and a Federal Home Loan Bank Affordable Housing program grant.

3. **FISCAL IMPACT:** The recommended budget adjustments would allow for the disbursement of up to \$258,000 for construction costs.

BUDGET REFERENCE

The table below identifies the fund and appropriations recommended to be amended as part of this memorandum.

Fund #	Appn. #	Appn. Name	Total Appn	Proposed Budget Action	2015-2016 Adopted Operating Budget	Last Budget Action (Date, Ord. No.)
346	0070	Housing Loans and Grants	\$17,075,000	\$258,000	XI-52	10/20/15, Ord. 29636
346	8437	Housing Project Reserve	\$55,853,509	(\$258,000)	XI-53	10/20/15, Ord. 29636

COORDINATION

This report has been coordinated with the Office of the City Attorney.

HONORABLE MAYOR AND CITY COUNCIL

February 1, 2016

Subject: Amended DDA and Grant for 868 Delmas Avenue to Habitat for Humanity

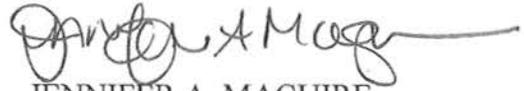
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CEQA

CEQA: Exempt PP06-144.

/s/

JACKY MORALES-FERRAND
Director of Housing



JENNIFER A. MAGUIRE
Senior Deputy City Manager/
Budget Director

Attachment: Exhibit A – Site Map

For questions, please contact Jacky Morales-Ferrand, Director of Housing, at (408) 535-3855.

**Exhibit A
Site Map**

