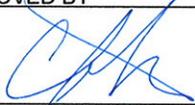


AGENDA ITEM NO. IF

COUNCIL MEETING: 04-07-11

APPROVED BY

DEPARTMENT DIRECTOR 

CITY MANAGER 

April 7, 2011

FROM: CRAIG SCHARTON, Director   
Downtown and Community Revitalization Department

THROUGH: CLAUDIA CÁZARES, Manager   
Housing and Community Development Division

BY: CORRINA NUNEZ, Project Manager   
Housing and Community Development Division

SUBJECT: APPROVE AMENDMENT NO. 1 TO DISPOSITION AND DEVELOPMENT AND HOME AGREEMENT WITH HABITAT FOR HUMANITY FRESNO, INC., GRANTING A TIME EXTENSION FOR THE COMPLETION OF TWO AFFORDABLE SINGLE-FAMILY HOMES ON EAST GARRETT AVENUE

## RECOMMENDATIONS

Staff recommends that the City Council approve Amendment No. 1 (Exhibit "A") to the February 11, 2010, Disposition and Development and HOME Agreement (DDA/HOME Agreement) with Habitat for Humanity Fresno, Inc., (Habitat), granting a time extension from October 2011 to March 2013 for the completion of two affordable single-family homes at 4979 East Garrett Avenue (APN: 481-390-46T) and 4983 East Garrett Avenue (APN: 481-390-47T).

## EXECUTIVE SUMMARY

On February 11, 2010, the City entered into a DDA/HOME Agreement with Habitat for the development of two single-family homes on Garrett Avenue in southwest Fresno. On March 12, 2011, the City received a time extension request from Habitat to extend the project's completion date as originally provided for in the DDA/HOME Agreement. Habitat is requesting an extension to the Garrett Avenue project schedule to allow time to complete work on its South Clara Estates affordable housing project in southwest Fresno before it commences work on the Garrett Avenue homes. The revised project schedule as outlined in Amendment No. 1 provides for the commencement of construction to begin August 2012 and completion of the homes to end March 2013.

## BACKGROUND

In January of 2009, the City issued a Request for Proposals (RFP) to create affordable housing opportunities while disposing of previously acquired sites on East Garrett Avenue and other scattered infill sites throughout the City. In response to the RFP, Habitat submitted a successful proposal to construct two "sweat equity" affordable single-family homes on the East Garrett Avenue sites.

REPORT TO THE CITY COUNCIL

RE: APPROVE AMENDMENT NO. 1 TO DISPOSITION AND DEVELOPMENT AND HOME AGREEMENT WITH HABITAT FOR HUMANITY

April 7, 2011

Page 2

In February 2010, Habitat entered into a DDA/HOME Agreement with the City and acquired the East Garrett Avenue lots through escrow. Habitat proposed to start construction on the two affordable "sweat equity" homes in March of 2011. However, Habitat became delayed on its South Clara Estates project currently underway in southwest Fresno and has therefore requested an extension to the commencement and completion dates for the Garrett Avenue homes.

Habitat is requesting a revised Garrett Avenue project commencement date from March 2011 to August 2012 and a revised completion date from October 2011 to March 2013.

Once completed, both houses will be three- bedroom, two-bathroom units and have solar panels and Universal Design features in accordance with City Ordinance No. 2008-53. Habitat's "sweat equity" method of housing development consists of training families in basic construction so that they may assist in the building of their home. Habitat also provides training and support services in the areas of home maintenance, home improvement, interior design, budgeting, and consumer awareness.

#### **HOUSING AND COMMUNITY DEVELOPMENT COMMISSION**

The Housing and Community Development Commission considered and recommended this item for approval on March 23, 2011.

#### **FISCAL IMPACT**

There will be no fiscal impact to the Downtown and Community Revitalization Department's FY 2010-2011 Budget as a result of the time extension.

#### **APPENDICES:**

Exhibit A – Amendment No. 1 to Disposition and Development and HOME Agreement

Exhibit B – Habitat's Time Extension Request

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

City of Fresno  
City Clerk  
2600 Fresno Street, Room 2133  
Fresno, CA 93721-3603

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Amendment No. I to Agreement is recorded at the request and for the benefit of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

Re: Disposition and Development  
Agreement dated February 11, 2010  
Recorded on 03/02/10, doc. No.  
2010028082

CITY OF FRESNO

By: \_\_\_\_\_  
Name: Mark Scott  
Its: City Manager  
Date: \_\_\_\_\_

**AMENDMENT NO. I TO  
CITY OF FRESNO  
DISPOSITION AND DEVELOPMENT AGREEMENT  
AND HOME PROGRAM AGREEMENT**

by and between

CITY OF FRESNO,  
a municipal corporation

and

Habitat for Humanity Fresno, Inc.  
a non-profit corporation

Regarding

"4979 E. Garrett Avenue (APN: 481-390-46T)  
4983 E. Garrett Avenue (APN: 481-3890-47T)"  
Low-Income Single-Family Housing Development



**AMENDMENT NO. I To  
Disposition and Development Agreement and HOME Program Agreement**

This Amendment No. I to the Disposition and Development Agreement (DDA) and HOME Agreement, effective \_\_\_\_\_, 2011, is entered between the City of Fresno, a municipal corporation, acting through its Downtown and Community Revitalization Department - Housing and Community Development Division (hereinafter referred to as "CITY") and Habitat for Humanity Fresno Inc., a California nonprofit corporation (hereinafter referred to as "DEVELOPER").

**RECITALS**

WHEREAS, the CITY and DEVELOPER are parties to a February 11, 2010, DDA and HOME Agreement and Exhibits/Attachments thereto, including covenants running with the land, incorporated herein, pursuant to which the CITY, to further its goal to increase the supply of Affordable Housing within the City of Fresno, agreed to assist the DEVELOPER by providing HOME Program funds, upon the terms and conditions in the DDA and HOME Agreement, for the development of two low-income single-family housing units to be funded, in part, with U.S. Department of Housing and Urban Development (HUD) HOME Program funds, upon HOME eligible property located on Garrett Avenue, within the boundaries of the City of Fresno, APN 481-390-46T and 481-390-47T, as more particularly described in the DDA and HOME Agreement, said Project subject to Affordability restrictions as provided in the DDA and HOME Agreement; and

WHEREAS, due to a delay with the DEVELOPER'S South Clara Estates Project, the parties desire to extend the project schedule including commencement of construction and completion dates, upon the terms and conditions herein; and

WHEREAS, the Housing and Community Development Commission recommended approval of this Amendment No. I on March 23, 2011.

WHEREAS, the Fresno City Council approved this Amendment No. I on \_\_\_\_\_, 2011.

**AMENDMENT**

NOW THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual promises herein contained, and for other good and valuable consideration hereby acknowledged, the parties agree to the following:

1. The Project commencement of construction shall be not later than August 2012, and the Project completion date shall be not later than March 2013.
2. The Project Description and Schedule attached to the DDA and HOME Agreement as Exhibit "B" is hereby stricken and replaced with the Revised Exhibit "B" Project Description and Schedule attached hereto and incorporated

herein.

3. In the event of any conflict between the body of this Amendment No. 1, and any exhibit or attachment hereto, the terms and conditions of the body of this Amendment No. 1 shall control and take precedence over the exhibit/attachment.
4. All capitalized terms used in this Amendment No. 1, unless otherwise defined herein, shall have the meanings assigned to such terms in the DDA and HOME Agreement.
5. Except as expressly modified and amended hereby, the DDA and HOME Agreement shall remain in full force and effect. From and after the effective date of this Amendment I, references in the DDA and HOME Agreement to "this Agreement" shall mean the DDA and HOME Agreement as hereby amended.
6. This Amendment No. 1 shall be conditional upon any/all required HUD approvals.
7. DEVELOPER hereby waives and releases any and all claims or causes of action against the CITY it possesses or may possess arising out of or related to this Amendment No. 1.

///  
///  
///

IN WITNESS WHEREOF, the authorized agents of the parties hereto have executed this Amendment No I, at Fresno, California, the day and year first above written.

CITY OF FRESNO, a Municipal Corporation

By: \_\_\_\_\_  
Mark Scott, City Manager  
(Attach notary certificate of acknowledgment)

Date: \_\_\_\_\_

ATTEST  
Rebecca E. Klisch  
City Clerk

APPROVED AS TO FORM:  
James Sanchez  
City Attorney

By: \_\_\_\_\_  
(Deputy)

By: \_\_\_\_\_  
Robert Coyle, Deputy

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Habitat for Humanity Fresno, Inc.

BY: \_\_\_\_\_  
(Attach notary certificate of acknowledgment)

Name: Tony Miranda

Title: Executive Director

Date: \_\_\_\_\_

Attachment:

Revised Exhibit B: Project Description and Schedule



## **EXHIBIT “B”**

REVISED EXHIBIT B: PROJECT DESCRIPTION AND SCHEDULE

(Attached)



## **REVISED EXHIBIT B: PROJECT DESCRIPTION AND SCHEDULE**

### **I. PROJECT DESCRIPTION:**

The Project consists of Property acquisition and the construction of two (2) single-family homes for occupancy by low-income families to be sold at affordable housing cost. DEVELOPER shall pay for on-site and off-site improvements, construction, marketing, and selling of the homes. Consistent with the attached Budget, the DEVELOPER will fund all non-acquisition pre-construction and construction costs with non-HOME Program Funds. The DEVELOPER, or its CITY-approved lender, will qualify all households. Upon CITY approval and consistent with the Agreement to which this revised Exhibit "B" is an attachment, the two (2) affordable homes shall be sold to the low-income families. Both of the three-bedroom two-bathroom Units will feature solar panels and Universal Design features.

Maximum HOME funding for the Project is a total of One Hundred Sixty Thousand Dollars and 00/100 (\$160,000.00), for acquisition of both parcels which shall be assumable deed trust notes on the two (2) affordable homes, to be made through the sales escrow or as otherwise directed by CITY for the affordability of the purchase of each home.

### **II. PROJECT SCHEDULE:**

- August 2012 – begin construction on Garrett first house
- Sept. 2013 – begin construction on Garrett second house
- Feb. 2013 – complete construction on Garrett first house
- March 2013 – complete construction on Garrett second house
- April 2013 – close escrow on Garrett first house
- May 2013 – close escrow on Garrett second house





2219 San Joaquin  
Fresno, California 93721  
559-237-4102  
559-237-1451 fax  
[www.habitatfresno.org](http://www.habitatfresno.org)

March 12, 2011

City of Fresno  
Housing and Community Development Division  
Attn: Claudia Cazares  
2600 Fresno Street, Room 3070  
Fresno, CA 93721

Dear Ms. Cazares,

I am requesting an extension to Habitat's Disposition and Development Agreement and HOME Program Agreement dated February 19, 2010, to build two, single story, self-help style homes on Garrett street, at the northwest corner of Willow and Garret in southwest Fresno.

Due to a variety of reasons we have experienced several setbacks on the South Clara project, which precedes the Garrett Street project. The start of construction was delayed for almost one year due to weather and issues with developing the land to the point of buildable lots. House construction was also hindered as the economy led us to find new, creative ways to find the capital to continue to fund the homes. The financial challenges have resulted in extending the entire project by an additional six months. We want to honor our obligation to complete the Clara North project before working on the Garrett Street project. Below is a schedule from now until we complete the Garrett projects. It details our strategy for both projects:

- April 2011 – start the 9<sup>th</sup> home at CNV
- June 2011 – start the 10<sup>th</sup> home at CNV
- July 2011 – complete construction on the 7<sup>th</sup> home at CNV
- Aug 2011 – close escrow on the 7<sup>th</sup> home at CNV
- Sept 2011 - start the 11<sup>th</sup> home at CNV
- Oct 2011 – complete construction on the 8<sup>th</sup> home at CNV
- Nov 2011 – close escrow on the 8<sup>th</sup> home at CNV
- Dec 2011 – complete construction on the 9<sup>th</sup> home at CNV
- Jan 2011 – close escrow on the 9<sup>th</sup> home at CNV
- Feb 2012 – complete construction on the 10<sup>th</sup> home at CNV
- March 2012 – close escrow on the 10<sup>th</sup> home at CNV
- April 2012 – complete construction on the 11th home at CNV
- May 2012 – close escrow on the 11<sup>th</sup> home at CNV
- July 2012 – Ensure all CNV homes are signed off and escrow closed, all Habitat supplies and materials moved to new site, all subdivision work is completed and signed off, landscape and ponding basin have meet City requirements and are turned over to the City and we are 100% done with the project.
- Aug 2012 – begin construction on Garrett 1

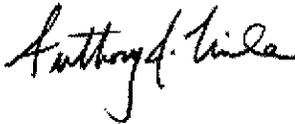
EXHIBIT "B"

- Sept 2012 – begin construction on Garrett 2
- Feb 2013 – complete construction on Garrett 1
- March 2013 – complete construction on Garrett 2
- April – close escrow on Garrett 1
- May – close escrow on Garrett 2

Therefore, our extension request for the Garrett Street project is to May 31, 2013. The extension would give us time to complete the Clara North project in the next 18 months (August of 2012) then nine months to build and close the two Garrett homes.

Please contact me at 237-4102, if there is any additional information you need from me.

Sincerely,

A handwritten signature in black ink that reads "Anthony J. Miranda". The signature is written in a cursive style with a large initial 'A' and 'M'.

Anthony J. Miranda  
Executive Director