



# COUNCIL REPORT

**DATE:** March 25, 2025

**CATEGORY:** Consent

**DEPT.:** Housing Department

**TITLE:** **Authorization to Execute an Amendment to the Exclusive Negotiating Agreement (ENA) with Affirmed Housing for the Development of Affordable Housing at 87 East Evelyn Avenue**

## **RECOMMENDATION**

Adopt a Resolution of the City Council of the City of Mountain View Authorizing Amendment of the Exclusive Negotiating Agreement (“ENA”) with Affirmed Housing for Development of Affordable Housing at 87 East Evelyn Avenue (APN 160-65-008) to Extend the Negotiation Period for the Lease, Disposition, Development, and Loan Agreement (“LDDLA”) by 90 Days with an Option for One Additional 30-Day Extension if Necessary to Complete Negotiations, and Authorizing the City Manager or Designee to Execute the Amended ENA, to be read in title only, further reading waived (Attachment 1 to the Council report).

## **BACKGROUND**

On September 26, 2023, Council selected Affirmed Housing (Affirmed) as the preferred developer to redevelop the City-owned site at 87 East Evelyn Avenue into a 100% affordable housing project. Council directed staff to enter into an Exclusive Negotiating Agreement (ENA) with Affirmed and commence the negotiation process for the Lease, Disposition, Development, and Loan agreement (LDDLA) for the site. The City has used LDDLA’s for affordable housing projects on City-owned sites to ensure that the City’s development goals and priorities are met.

The ENA was executed on March 1, 2024, with an initial negotiation term of 210 days. On September 27, 2024, the ENA was amended to extend the agreement by 180 days, with an expiration date of March 26, 2025. The City’s existing ENA with Affirmed allows for additional extensions with Council approval.

## **ANALYSIS**

Staff and the Developer have been working in good faith through the ENA period to complete the site planning process and due diligence, and for the developer to explore financing and grant options.

The Developer has made significant progress during the ENA period, including:

- Completing the coordinated site planning process with the City and neighboring property owner (Charities);
- Completing geotechnical and environmental studies;
- Preparing a State Affordable Housing and Sustainable Communities (AHSC) grant application; and
- Submitting a preliminary and formal SB 35 application.

During this time, interdepartmental City staff have completed review of the preliminary SB 35 application and are in the process of reviewing the formal SB 35 application. In parallel, Housing staff have been working closely with Affirmed on key deal terms, affordability requirements, and external funding opportunities.

The Developer and City require additional time beyond the March 26, 2025 ENA expiration date to finalize the LDDLA to ensure all key terms are adequately reviewed and refined. As a result, staff seeks authorization to extend the negotiation period of the ENA by 90 days (through June 24, 2025), with one 30-day extension (through July 24, 2025), if needed.

### **FISCAL IMPACT**

There is no fiscal impact associated with extending the ENA term.

### **LEVINE ACT**

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a “license, permit, or other entitlement for use” if the official has received a campaign contribution exceeding \$500 from a party, participant, or agent of a party or participant within the last 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more

information see the Fair Political Practices Commission website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html)

Please see below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

**SUBJECT TO THE LEVINE ACT**

Material contract modification or amendment

**ALTERNATIVES**

1. Choose not to authorize extension of the ENA.
2. Provide direction on alternative terms.
3. Provide other direction.

**PUBLIC NOTICING**

The meeting agenda and Council report have been posted on the City's website and announced on Channel 26 cable television.

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DT/4/CAM  
845-03-25-25CR  
205093

Attachment: 1. Resolution