



# City of Palo Alto

## City Council Staff Report

(ID # 7125)

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**Report Type: Action Items**

**Meeting Date: 6/27/2016**

**Summary Title: Approval of MOU re Buena Vista Mobile Home Park**

**Title: Approval of Memorandum of Understanding (MOU) Between the Santa Clara County Housing Authority, the County of Santa Clara and the City of Palo Alto to Provide up to \$14.5 Million in City Affordable Housing Funds in Support of the Housing Authority's Potential Acquisition of the Buena Vista Mobile Home Park for Deed Restricted Affordable Housing, From June 28, 2016 Through June 28, 2018; Authorize the City Manager to Implement MOU Subject to Council Conditions and Reporting**

**From: City Manager**

**Lead Department: City Attorney**

### **Recommendation**

Staff recommends that Council consider the following Motion:

1. Approve the attached Memorandum of Understanding (MOU) with the Housing Authority of the County of Santa Clara and the County of Santa Clara relating to providing funding for the Housing Authority's potential acquisition of the Buena Vista Mobile Home Park in an amount not to exceed \$14,500,000 for period June 28, 2016 through June 28, 2018, for the purpose of affordable housing.
2. Authorize the City Manager or his designee to implement and administer the Memorandum of Understanding, subject to conditions described in this report and as determined by Council.

### **Background**

The Buena Vista Mobilehome Park is a privately-held property containing 104 mobile homes, 12 studio apartments, and one single family residence on approximately 4.5 acres. The site is within the Barron Park neighborhood of Palo Alto and is home to about 400 people, including many families with children who attend local public schools.

In 2012, the Buena Vista Park owner filed an application with the City to close the Mobilehome Park. State and local law gives mobilehome park owners the right to close those businesses,

provided they mitigate the impact on displaced residents. In May 2015, the Council approved the Park owner's closure plan with mitigation measures and conditions.

The Residents' Association filed a writ petition in Santa Clara County Superior Court seeking to reverse the closure approval on the grounds that the mitigations are inadequate and fail to comply with state mobilehome park residency law and the Palo Alto Municipal Code. Subsequently, the owner filed a suit in U.S. District Court contending that the mitigations are excessive and violate the federal Constitution. Both suits are pending.

Santa Clara County Supervisor Joe Simitian has initiated an effort to find ways to preserve affordable housing at Buena Vista. In 2015, the County Board of Supervisors and the Palo Alto City Council each voted to set aside \$14.5 million in restricted affordable housing funds, to fund acquisition of the Buena Vista site and preservation of the site as affordable housing. Working with the County, a non-profit housing provider stepped forward to put together a market-rate offer to acquire the Park, plan for needed improvements, and maintain it as a source of deed-restricted affordable housing. Negotiations between the non-profit and the Park owner ended when litigation over the closure began.

### **Discussion**

The Santa Clara Valley Housing Authority is a public agency with a mission to "provide and inspire affordable housing solutions to enable low-income people in Santa Clara County to achieve financial stability and self-reliance." The Housing Authority administers the federal Section 8 rental assistance program, and develops, controls and manages affordable rental housing properties throughout the County, assisting approximately 17,000 households to find and maintain housing. The Authority has expressed an interest in acquiring and owning the Buena Vista Mobilehome Park for the purpose of providing affordable housing. In support of this effort, the City and the County are asked to confirm that each will provide the same level of funding (\$14.5 million) previously set aside for acquisition of the Park.

The Housing Authority would provide pre-development funding to assess feasibility and acquisition cost. If the Housing Authority determined to move forward with acquisition, it would contribute additional funds, if needed, and retain a non-profit with expertise in operating mobilehome housing to improve, manage and operate Buena Vista as a mobilehome park with spaces deed restricted for use by households qualifying for affordable housing.

The attached MOU documents the responsibilities of the County, City and Housing Authority. The MOU is a preliminary step, to be followed by the Housing Authority completing the feasibility analysis and other pre-development activities, and determining whether to move forward with acquisition. The Housing Authority states that the feasibility analysis will be completed later in the summer or early fall.

Staff recommends that Council delegate to the City Manager, or designee, authority to review and evaluate the analysis and take subsequent actions to proceed with making funding

available to the Housing Authority for the proposed acquisition, provided Council's conditions and directions are met, and with appropriate reporting as directed by Council.

The County approved the attached MOU on June 20, 2016. The Housing Authority Board is scheduled to vote on the MOU on June 28, 2016.

### **Buena Vista Funding Conditions**

Staff recommends that Council delegate authority to implement the MOU to the City Manager provided that the following conditions are satisfied:

1. The Buena Vista Mobile Home Park shall be maintained as an affordable mobilehome park or equivalent housing resource for up to 50 years. The Housing Authority or a qualified non-profit entity shall maintain and operate the affordable housing.
2. The Housing Authority and the nonprofit operator shall avoid displacing current residents to the maximum extent allowed by law.
3. The Housing Authority shall invest or cause to be invested at least \$10 million in upgrades to the Park to ensure appropriate site improvements are made.
4. City funds committed shall be affordable housing funds, and the Housing Authority shall comply with the restrictions imposed on the use of those funds. Prior to the transfer of City funds, the Housing Authority or its agents shall enter into a regulatory agreement in a form acceptable to the City and the Authority that documents the affordability restrictions and other requirements.
5. In order to protect the City's general funds, the Housing Authority shall fully indemnify the City for any liability exposure in connection with the Housing Authority's acquisition, site improvements, or tenant displacement.
6. In the event that the Park is sold or transferred at any time in the future, the Housing Authority shall reinvest all proceeds in the City of Palo Alto to create additional affordable housing.

### **Environmental Review**

Approval of the MOU would provide funding to perpetuate an existing mobile home park and is not a project subject to environmental review.

### **Policy Implications**

The City's adopted Housing Element (Program H3.1.8) recognizes the Buena Vista mobilehome park as providing low-and moderate-income housing opportunities and states that to the

extent feasible, the City will seek appropriate local, State and federal funding to assist in the preservation and maintenance of the existing units.

The City's Housing Element contains policies both supporting the preservation and rehabilitation of existing units (Policy H1.1 and H1.2), and policies supporting actions to increase the supply of affordable housing (Policy H2.1 and H2.2). The Housing Element also documents at length some of the housing challenges facing Palo Alto and the region, and articulates quantified objectives for the 2015-2023 planning period for rehabilitation (600 below market rate units), preservation (334 below market rate units), and new development (1,401 below market rate units), indicating the need for investments in all of these activities.

**Attachments:**

- Attachment A: BV MOU Signature Final (HACSC June 14 2016) (PDF)

**MEMORANDUM OF UNDERSTANDING  
BY AND AMONG THE COUNTY OF SANTA CLARA,  
THE CITY OF PALO ALTO AND  
THE HOUSING AUTHORITY OF THE COUNTY OF SANTA CLARA**

This Memorandum of Understanding (MOU) is entered into as of June 28, 2016 by and among the County of Santa Clara (County), the City of Palo Alto (City) and the Housing Authority of the County of Santa Clara (HACSC) (each a “Party” and collectively the “Parties”).

**RECITALS**

WHEREAS, County and City and HACSC each acknowledge that there has been and there continues to be an acute shortage of affordable housing for the residents of the County and the City; and

WHEREAS, one of the few existing sites of moderate cost housing in the City is a certain mobile home park known as Buena Vista Mobile Home Park (Park), which consists of 104 mobile homes, 12 studio units and one single family home and provides housing for approximately 400 people; and

WHEREAS, the owner of the Park has sought to terminate the tenancy of the Park residents and close the Park for the development of market-rate housing; and

WHEREAS, it is HACSC’s mission to provide and inspire affordable housing solutions to enable low-income people in Santa Clara County to achieve financial stability and self-reliance; and

WHEREAS, the parties recognize that the ongoing operation of the Park (or an equivalent housing resource for the Park community) for a period of up to 50 years and the continuing use of the property for affordable housing will benefit the residents of the County and the City because it will create a long term affordable housing resource.

NOW, THEREFORE, County, City and HACSC agree as follows:

**1. PURPOSE**

It is the goal of this MOU to preserve the Park as an affordable housing resource, by operating the Park as a mobile home park, or equivalent, for up to 50 years and using the property continuously as an affordable housing resource, and to avoid displacement of the current Park tenants. The parties intend to accomplish this goal by jointly funding HACSC’s acquisition and improvement of the Park, as needed to preserve the Park as an affordable housing resource while avoiding permanent displacement of the current Park tenants.

## 2. TERM

This MOU shall be in effect from the date of its execution by all parties until the date of Acquisition Determination and thereafter until terminated in accordance with Section 6 below.

## 3. PRE-DEVELOPMENT ACTIVITIES

HACSC hereby commits an amount not to exceed \$250,000 for Pre-development Activities, which may include securing an appraisal, and retaining consultants and vendors to assist in due diligence and determining feasibility of various preservation and improvement alternatives.

## 4. ACQUISITION AND FUNDING OBLIGATIONS

After concluding its due diligence and feasibility analysis, HACSC will make a determination about whether to proceed with the acquisition of the Park (Acquisition Determination), subject to the Affordability Restrictions referenced in Section 5. If HACSC decides to acquire the property subject to the Affordability Restrictions, the County and City shall each contribute such amounts as the parties determine are necessary for the acquisition of the Park, but not to exceed \$14.5 million each (Maximum Financial Commitment). The parties will deposit the funds with the HACSC. HACSC will establish its Maximum Financial Commitment after consideration of the appraisal amount, and completion of its due diligence and feasibility activities.

In approving this MOU the City Council and County Board of Supervisors shall designate their respective Authorized Representatives who shall be authorized to take all actions necessary and reasonable for the City and the County to accomplish the purposes of this MOU, up to their respective Maximum Financial Commitments, and within the authority granted by their respective legislative bodies.

## 5. IMPROVEMENT AND MANAGEMENT

In the event HACSC acquires the Park, HACSC will own, operate and maintain the Park, subject to reasonable County and City recorded restrictions on use of the land (Affordability Restrictions), including, but not limited to, a restriction to operate the Park for up to 50 years and to use the property continuously for affordable housing.

The Parties agree that they have a common interest in establishing the potential financial viability of the Park as a housing resource. Prior to the final Acquisition

Determination the Parties will confer in accordance with their common interest and define the Affordability Restrictions to be recorded immediately after HACSC takes title to the Park. To the maximum extent allowed by law, HACSC will give housing priority to the tenants of the Park as of the date of the approval of this MOU, subject to compliance with reasonable and necessary rental rules, and income eligibility under applicable affordable housing financing.

## 6. TERMINATION

This MOU will automatically terminate on June 28, 2018 unless one of the termination events specified herein occurs first. Prior to June 28, 2018, this MOU may be terminated by any of the parties by written notice to each of the other parties following the occurrence of any of the following events:

- 6.1 Decision by HACSC not to acquire the Park;
- 6.2 Decision by any party not to agree to the Affordability Restrictions;
- 6.3 The Recording of Affordability Restrictions approved by each of the parties to the MOU.

Within 90 days of termination of this MOU for any reason, the HACSC will return any contribution amounts, as determined by Section 4, not used for the acquisition of the Park to the parties.

## 7. NOTICES

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served, mailed (or electronic mail), postage prepaid and return receipt requested, addressed to the respective parties as follows:

To County:

Megan Doyle  
Clerk of the Board of Supervisors  
County of Santa Clara  
70 W. Hedding Street  
East Wing, 10<sup>th</sup> Floor  
San Jose, CA 95110  
Email: [megan.doyle@ceo.sccgov.org](mailto:megan.doyle@ceo.sccgov.org)  
Phone: 408-299-5060

Jeff Smith  
County Executive  
County of Santa Clara  
70 W. Hedding Street  
East Wing, 11<sup>th</sup> Floor  
San Jose, CA 95110  
Email: [jeff.smith@ceo.sccgov.org](mailto:jeff.smith@ceo.sccgov.org)  
Phone: 408-299-5102

To City:

James Keene  
City Manager  
City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301  
Email: [james.keene@cityofpaloalto.org](mailto:james.keene@cityofpaloalto.org)  
Phone: 650-329-2105

To HACSC:

Katherine Harasz  
Executive Director  
Housing Authority of the County of  
Santa Clara  
505 W. Julian St.  
San Jose, CA 95110  
Email: [katherine.harasz@hacsc.org](mailto:katherine.harasz@hacsc.org)  
Phone: (408) 993-2903

## 8. PRIOR AGREEMENTS

This Agreement, including all Attachments, represents the entire understanding of the parties. This Agreement may only be modified by a written amendment duly executed by the parties to this Agreement.

## 9. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be



shared pro rata but, instead, HACSC, County and City agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Parties hereto, their officers, board members, employees, or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other Parties under this MOU.

Notwithstanding the foregoing, HACSC shall indemnify, defend, and hold harmless the County and City, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, the acquisition of the Park and/or the relocation of Park tenants, excepting only loss, injury or damage caused by the negligence or willful misconduct of the County and City. HACSC shall reimburse the County and City for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which HACSC is obligated to indemnify, defend and hold harmless the County and City under this MOU.

Each Party agrees that all obligations under this Section 9, Indemnification, shall survive the termination of this Agreement and shall remain binding on all Parties notwithstanding the Agreement's termination.

## 10. AMENDMENT

This MOU may not be amended except in a writing signed by all Parties. This MOU shall be binding on all successors and assigns of the Parties.

## 11. EXECUTION

This MOU may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts together shall constitute one and the same document. Signatures may be transmitted electronically.

WITNESS THE EXECUTION HEREOF the parties hereto have executed this Agreement on the day and year indicated below.

**HOUSING AUTHORITY OF THE  
COUNTY OF SANTA CLARA**

\_\_\_\_\_  
Kathy Espinoza-Howard, Chair  
Board of Commissioners  
Date:

APPROVED AS TO FORM

\_\_\_\_\_  
Brian Doyle  
General Counsel

**COUNTY OF SANTA CLARA**

\_\_\_\_\_  
Dave Cortese, President  
Board of Supervisors  
Date:

ATTEST:

\_\_\_\_\_  
Megan Doyle  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Elizabeth G. Pianca  
Lead Deputy County Counsel

**City of Palo Alto**

By: \_\_\_\_\_

James Keene  
City Manager

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

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney