



24-4864

**DATE:** May 7, 2024 (Item No. 65)

**TO:** Board of Supervisors

**FROM:** Consuelo Hernandez, Director, Office of Supportive Housing

**SUBJECT:** Delegation of Authority to Amend Existing Easements on County-owned property at 1000 Hillview Court

### **RECOMMENDED ACTION**

Approve delegation of authority to the County Executive, or designee, to negotiate, amend, terminate, and execute easements, covenants, conditions, and restrictions as necessary, or reasonably requested by the ground lessee of 1000 Hillview Court, Milpitas, relating to the operation of or improvements to the property, following approval by County Counsel as to form and legality, and approval by the Office of the County Executive. Delegation of authority shall expire on December 31, 2026. (LA-1)

### **FISCAL IMPLICATIONS**

There is no impact to the County General Fund associated with the recommended action.

### **REASONS FOR RECOMMENDATION AND BACKGROUND**

Approval of the recommended action will provide the Administration with the ability to enter into or amend easements and encumbrances affecting 1000 Hillview Court, Milpitas (“Property”). One anticipated near-term result of this approval would be to amend certain existing reciprocal easements and covenants, conditions, and restrictions (CC&Rs) with other property owners in the business park, which would allow the construction of a fence on the Property restricting egress and ingress to neighboring properties but still allowing for emergency and fire safety vehicle access.

The County is the fee owner of the Property and has entered into a long-term ground lease with JHC-Hillview, LLC (Jamboree), for the development and operation of an affordable housing project known as Hillview Court. The City of Milpitas and neighbors in the business park have proposed a perimeter fence in three sections of the Property with locking gates to restrict access between the affordable housing project property and the business park. The installation of the proposed fence is contingent upon the modification of the existing reciprocal easement agreements and CC&Rs.

This action is permitted by Government Code §25539.4, which provides that the County may convey or dispose of real property interests for certain properties providing affordable housing.

### *Reason for Request of Delegation of Authority*

Although delegations of authority are discouraged except under certain circumstances, this delegation of authority is necessary to timely address the project's need to move forward with the construction of the fence and provide flexibility for additional adjustments to the encumbrances on the Property that may be needed in connection with the project.

### *Summary of Prior Board Actions*

- On August 25, 2020 (Item No. 65), the Board adopted Resolution BOS-2020-132 delegating authority to the County Executive, or designee, to negotiate, execute, amend, and/or terminate acceptance of California Department of Housing and Community Development Homekey Program funds as co-applicant with Jamboree Housing Corporation in an amount not to exceed \$58,400,000; and to negotiate, execute, amend, and/or deliver a State of California Standard Agreement and any and all other documents required or deemed necessary for the Homekey Program funds, following approval by County Counsel as to form and legality, and approval by the Office of County Executive.
- On October 6, 2020 (Item No. 56), the Board approved an allocation of \$21,900,000 in 2016 Measure A Housing Bond funds to support the acquisition and conversion of the Property by Jamboree Housing Corporation or its affiliate.
- December 15, 2020 (Item No. 74), the Board ratified and approved terms of an amendment to the bridge loan agreement up to \$25,000,000 for Hillview Court, and approved issuing a notice to the public of the County's intent to purchase the Property in accordance with California Government Code Sections 25350 and 6063.
- On February 9, 2021 (Item No. 8), the Board adopted Resolution No. BOS-2021-17 finding the acquisition of the Property is exempt from the California Environmental Quality Act and finding that the acquisition serves a public purpose. In addition, the Board approved delegations of authority to take all necessary or required actions to acquire and consummate the purchase of the Property and to take any and all necessary or advisable actions relating to the Ground Lease and Regulatory Agreement.
- On March 14, 2023 (Item No. 77), the Board adopted Resolution No. BOS-2023-31 declaring the Property exempt surplus land under the Surplus Land Act.
- On May 2, 2023 (Item No. 56), the Board adopted Resolution No. BOS-2023-60 designating authority to the County Executive, or designee, to execute an amendment to a State of California Standard Agreement and any and all other amendments and documents required or deemed necessary for Homekey Program funds. This approval allowed the Administration to execute a required amendment to the State of California Standard Agreement to add JHC-Hillview, LLC, as a party to the Standard Agreement as a co-applicant in connection with the Homekey Program for the project.
- On October 17, 2023 (Item No. 61), the Board approved delegation of authority to the County Executive, or designee, to negotiate, execute, or amend all legal documents relating to an existing County acquisition loan in an amount not to exceed

\$21,900,000. This approval allowed the Administration to amend and restate the acquisition loan, reducing the outstanding amount by the County's acquisition of the Property from \$21,900,000 to \$11,900,000. Additionally, the Board approved a delegation of authority to the County Executive, or designee, to negotiate, execute, or amend all legal documents relating to an existing County Bridge loan in an amount not to exceed \$25,000,000. This approval allowed the Administration to restructure the County Bridge Loan approved by the Board on December 15, 2020, as a Permanent Loan and reflect a partial paydown of \$13,400,000. The outstanding balance of \$11,600,000 was secured against the Property. Converting this remaining balance to permanent debt afforded the project the necessary funds for Phase III improvements, which are currently in progress.

### **CHILD IMPACT**

The recommended action will have no/neutral impact on children and youth.

### **SENIOR IMPACT**

The recommended action will have no/neutral impact on seniors.

### **SUSTAINABILITY IMPLICATIONS**

The recommended action balances public policy and program interests and enhances the Board's sustainability goal of social equity by improving homeless and low-income persons' access to permanent affordable housing.

### **CONSEQUENCES OF NEGATIVE ACTION**

Without this approval, Jamboree would be unable to construct the desired fence.

### **STEPS FOLLOWING APPROVAL**

Following approval, please notify Natalie Monk, Stephan Jackson, and Marie Walters in the Office of Supportive Housing.

### **ATTACHMENTS:**

- Community Engagement Report for Hillview Court April 2024