

HAYWARD CITY COUNCIL

RESOLUTION NO. 21 –

Introduced by Council Member\_\_\_\_\_

RESOLUTION APPROVING GOVERNMENT CODE SECTION 52201 SUMMARY REPORT FOR THE PROJECT; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT WITH EDEN HOUSING, PACIFIC WEST COMMUNITIES, AND THE STRATEGIC GROWTH PARTNERS FOR TRANSFER OF SPECIFIED CITY OWNED PROPERTIES AND FOR THE DEVELOPMENT OF NEW AFFORDABLE HOUSING AND A SCHOOL; AND AMENDING THE PARCEL GROUP 3 AFFORDABLE HOUSING PLAN (PLANNING APPLICATION #202001594) AND MAKING SPECIFIED FINDINGS IN ASSOCIATION THEREWITH CONSISTENT WITH PRIOR CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATIONS

WHEREAS, the City of Hayward (the “City”) entered into a Purchase and Sale Agreement (PSA) with Caltrans in January 2016 to acquire 10 parcel groups comprised of properties acquired by Caltrans for the State Route 238 expansion project; and

WHEREAS, Caltrans granted the properties to the City in trust pursuant to State Route 238 Local Alternative Transportation Improvement Program (Government Code Sections 14528.6 and 14528.65); and

WHEREAS, Caltrans has transferred those properties to the City subject to the City managing the disposition and development of these former State Route 238 parcel groups with the goals of removing blight, enhancing community involvement in the development process, and creating economic and public benefits, such as job generating uses and trails and parks; and

WHEREAS, as the City sells or transfers particular parcels, the City is obligated to repay Caltrans the negotiated purchase prices for the various parcel groups under the PSA; and

WHEREAS, these parcels are exempt surplus land pursuant to Government Code section 54221(f)(1)(H) because the land was granted by Caltrans in trust to the City and for which disposal of the land is authorized or required subject to conditions established by statute; and

WHEREAS, under Government Code Section 14528.65(a)(2) the Surplus Lands Act does not apply to the sale of excess property pursuant to Section 14528.65; and

WHEREAS, in April 2018, the Council approved the issuance of a Request for Proposals (RFP) for the cluster of parcels located north of Tennyson Road and east of 16th Street, referred to as “Parcel Group 3,” which was intended to facilitate the re-sale of the parcels through a competitive process to ensure the best price and land use for the City; and

WHEREAS, in July 2018, the Council authorized the City Manager to negotiate and enter into an Exclusive Negotiating Rights Agreement (ENRA) with the proposed Developer (Eden Housing and Pacific West Communities), based on their proposal to construct a minimum of 150 affordable housing units and a public community school on the Parcel Group 3 properties; and

WHEREAS, after significant due diligence and site planning efforts, the Developer submitted an application for development of two five-story residential buildings comprised of 176 affordable rental housing units, a two-story 36,000-square-foot public community school for up to 384 preschool and elementary students, and indoor and outdoor amenity spaces located north of Tennyson Road between 16th Street and the future La Vista Park; and

WHEREAS, the application required approval of a Site Plan Review, Administrative Use Permit, and Density Bonus application, which was approved by the Planning Commission on July 22, 2021; and

WHEREAS, the approval was then appealed to the Council, which the Council denied on September 28, 2021; and

WHEREAS, twenty-one parcels of land zoned for single family housing within Parcel Group 3 will also be transferred to the Developer, but is not currently planned for development; and

WHEREAS, the 21.5- acre remainder of Parcel Group 3 will be retained by the City for the expansion of La Vista Park; and

WHEREAS, the City, Eden Housing and Pacific West Communities, and Strategic Growth Partners (the Developers) successfully completed the obligations under the ENRA and now desire to enter into a Disposition and Development Agreement (the “DDA”); and

WHEREAS, the City will enter into a DDA with the Developers for the disposition from the City to Developers for a total purchase price of \$3,552,000 for the following parcels: a 4.6-acre parcel to be transferred for the development of 176 new affordable rental housing units (Housing Parcel); a 3.2-acre parcel for the development of a new school (School Parcel); and 21 parcels of land zoned for single family housing (Single Family Parcels); and

WHEREAS, amendments to the Parcel Group 3 Affordable Housing Plan are required to address conflicting affordability requirements between funding sources and State Density Bonus law and more accurately reflect the unit mix of the affordable housing development project; and

WHEREAS, independent of the DDA the City is obligated to construct the keyway improvements associated with La Vista Park. Under the DDA, the City has agreed to prioritize the construction of specified portions of the La Vista Park Keyway. The construction of the La Vista Park Keyway is consistent with the prior CEQA determination for the updated La Vista Park design presented and approved by the Council on September 28, 2021; and

WHEREAS, as further outlined in the Staff Report accompanying this Resolution and incorporated into this Resolution by this reference (the “Staff Report”), the transfers contemplated under the DDA will further the public purpose of economic development creating jobs, and securing a site for future development of affordable housing in an area that has suffered from historic under development as a result of the proposed and now defunct freeway project, all of which serve the common benefit; and

WHEREAS, the City has placed on file a copy of the summary report called for under Government Code Section 52201 (the “Section 52201 Summary Report”), and has made the Section 52201 Summary Report available for public inspection and copying in compliance with pursuant Government Code Section 52201; and

WHEREAS, as further outlined in the Staff Report, the City has determined that the sale of the properties pursuant to the DDA will create economic opportunity and: (1) result in the creation of 176 affordable rental housing units to meet demonstrated affordable housing needs identified in the Housing Element of the City’s General Plan and will increase, improve, or preserve the supply of quality affordable housing in the community; (2) result in job creation as a result of the anticipated construction of the new development, including approximately 415 full-time equivalent (FTE) temporary construction jobs, and an estimated 60 permanent jobs without investment of City funds; and (3) result in the public purpose of economic development by creating jobs, affordable housing, and a school and contribute to the vibrancy in an area of the City that has suffered from historic underdevelopment as a result of the proposed and now defunct SR 238 freeway project; and

WHEREAS, as further outlined in the Staff Report and the Section 52201 Summary Report, the City is not providing any form of direct or indirect financial assistance to the Developer and is transferring the property to the Developers for the determined fair market value at its highest and best use; and

WHEREAS, the City Council conducted a duly noticed public hearing on the DDA and the 52201 Summary Report pursuant to Government Code Section 52201, for the purpose of receiving the input and comments of the public on the DDA and the 52201 Summary Report; and

WHEREAS, the City has conducted the required review under the California Environmental Quality Act, California Public Resources Code §21000- §21177, as amended ("CEQA").

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward finds that the above recitals are true and correct and have served, together with the Section 52201 Summary Report and the Staff Report, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52200.2 and Government Code Section 52201(b), the City Council hereby finds that the sale of the properties pursuant to the DDA will create economic opportunity and result in: (1) the creation of 176 affordable rental housing units to meet demonstrated affordable housing needs identified in the Housing Element of the City's General Plan and will increase, improve, or preserve the supply of quality affordable housing in the community; (2) job creation as a result of the anticipated construction of the new development, including approximately 415 full-time equivalent (FTE) temporary construction jobs, and an estimated 60 permanent jobs without investment of City funds; and (3) the public purpose of economic development by creating jobs, affordable housing, and a school and contribute to the vibrancy in an area of the City that has suffered from historic underdevelopment as a result of the proposed and now defunct SR 238 freeway project. This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52201, the City Council hereby finds that the consideration to be paid under the DDA is not less than the fair market value at its highest and best use. This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52201, the City Council hereby approves the Section 52201 Summary Report, in substantially the form on file with the City Clerk, and approved execution by the City Manager of the DDA and all ancillary documents in a form to be approved by the City Attorney and consistent with the terms and conditions identified in the accompanying Staff Report.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 37350, the City Council hereby finds that the disposition of the properties pursuant to the DDA is for the common benefit.

BE IT FURTHER RESOLVED that the City finds and determines that the disposition and development of the Parcel Group 3 properties do not require any subsequent or supplemental Environmental Impact Report (EIR) or further CEQA review pursuant to an Addendum to the General Plan EIR, which was prepared pursuant to Section 15164 of the CEQA guidelines that demonstrated that the project is within the scope of the General Plan EIR and would have no new or more severe significant effects and no new mitigation measures are required.

BE IT FURTHER RESOLVED that the City finds and determines that the coordination of the construction of keyway improvement between the Parcel Group 3 development and the proposed La Vista Park would not require major revisions to the 2005 La Vista Development Initial Study/Mitigated Negative Declaration (IS/MND) due to new or substantially increased significant environmental effects. The analysis confirms that the park extension and keyway improvements are within the scope of the 2005 (IS/MND) and will have no new or more severe significant effects. Rather, minor revisions to the previously adopted mitigation measures will ensure a better outcome is achieved than the original document disclosed. Therefore, no subsequent or supplemental EIR or further CEQA review is required for the La Vista Park development, including the construction of the keyway improvements.

BE IT FURTHER RESOLVED that the City Manager or designee is directed to cause a notice of determination to be filed with the Alameda County clerk, pursuant to the CEQA Guidelines, following adoption of this Resolution.

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or designee to execute the DDA, and all ancillary documents attached thereto, on behalf of the City in substantial conformance to the terms outlined in the staff report, subject to such nonsubstantive or minor modifications or amendments as may be necessary to complete the transactions contemplated hereby, and subject further to the City Attorney's approval as to form.

BE IT FURTHER RESOLVED that the City Manager or designee shall execute such other instruments, and take any and all other action, as may be reasonably necessary to complete the disposition and acquisition of the SR 238 Parcel Group 3 properties, and to close escrow on, as contemplated in the DDA.

BE IT FURTHER RESOLVED that the Council approves amendments to the Parcel Group 3 Affordable Housing Plan contained in the staff report, following adoption of this Resolution.

BE IT FURTHER RESOLVED that the City Council designates the City Clerk as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the office of the City Clerk, at 777 B Street, Fourth Floor, Hayward, CA 94541.

BE IT FURTHER RESOLVED that this Resolution shall take immediate effect from and after its passage.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS

ATTEST: \_\_\_\_\_

City Clerk of the City of Hayward

APPROVED AS TO FORM:

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City Attorney of the City of Hayward