

HAYWARD CITY COUNCIL

RESOLUTION NO. 22 – _____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH EDEN HOUSING, PACIFIC WEST COMMUNITIES, AND STRATEGIC GROWTH PARTNERS AND OTHER AFFILIATED ENTITIES FOR TRANSFER OF SPECIFIED CITY OWNED PROPERTIES WITHIN PARCEL GROUP 3 AND AMENDMENTS TO EXHIBITS ATTACHED THERETO INCLUDING THE RESTRICTIVE USE COVENANT AGREEMENT; AND APPROVING MODIFICATIONS TO THE PARCEL GROUP 3 AFFORDABLE HOUSING PLAN (PLANNING APPLICATION #202001594)

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 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, 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, in October 2021, the City, Eden Housing and Pacific West Communities, and Strategic Growth Partners (the Developers) successfully completed the obligations under the ENRA and entered into a Disposition and Development Agreement (the “DDA”); and

WHEREAS, the City executed 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 herein after referred to as the “Adjacent 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 were approved in October 2021 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. The Developer has requested additional revisions to the Parcel Group 3 Affordable Housing Plan to address feasibility issues related to interest rate increases and cost escalation factors; 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. The amendment contemplates an update to the construction schedule for the keyway improvements; and

WHEREAS, since approval of the DDA, the Developer requested changes to the DDA and Affordable Housing Plan to allow development of housing and all of the site-related infrastructure to commence ahead of the development of the Adjacent Parcel, to provide more flexibility in the timing of development and allowable development uses of the Adjacent Parcel, to address feasibility issues related to interest rate increases and cost escalation factors, and to update schedule of performance for the various aspects of the Project (including the construction of the Keyway Improvements); and

WHEREAS, staff is recommending that the Council authorize the City Manager to negotiate and execute amendments to the DDA consistent with the Developer’s request.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward authorizes the City Manager or designee to execute the First Amendment to 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 first amendment to the DDA.

BE IT FURTHER RESOLVED that the Council approves amendments to the Parcel Group 3 Affordable Housing Plan contained as Attachment III to 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 _____, 2022

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:

City Attorney of the City of Hayward