

HAYWARD CITY COUNCIL
RESOLUTION NO. 24 - _____

Introduced by Council Member _____

RESOLUTION APPROVING AN UPDATED GOVERNMENT CODE SECTION 52201 SUMMARY REPORT FOR THE PROJECT; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE FIRST AMENDMENT TO THE DISPOSITION DEVELOPMENT AND LOAN AGREEMENT WITH RCD GP IV, LLC AND PARCEL GROUP 8, L.P. FOR TRANSFER OF SPECIFIED CITY OWNED PROPERTIES AND FOR THE DEVELOPMENT OF HOUSING AND MAKING SPECIFIED FINDINGS IN ASSOCIATION WITH A GOVERNMENT CODE SECTION 65913.4 EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Hayward 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, under Government Code Section 54221(f)(1)(A) "exempt surplus land" is defined to include surplus land that is transferred pursuant to Government Code Section 37364; and

WHEREAS, under Government Code Section 37364, whenever a City determines that its property can be used for the provision of affordable housing to families of low or moderate income as defined in Health & Safety Code Section 50093, and that the use is in the City's best interest, the City may sell or otherwise convey the property under whatever terms and conditions it deems appropriate as long as at least 80% of the area of the property being

disposed is used for the development of housing, and that at least 40% of the total housing units are restricted to low and very low incomes as specified under Government Code Section 37364(c-d); and

WHEREAS, at least 80% of the developable area of geographically clustered Parcel Group 8 will be used for the generation of housing, and at least 40% of the residential units will be affordable as specified under Government Code Section 37364(c-d); and

WHEREAS, the production and rehabilitation of affordable housing in a comprehensive manner over Parcel Group 8 housing properties is in the best interest of the City as it allows the housing to be built in an expedient manner with project components that are nearly shovel ready and as it avoids detrimental impacts often associated with the concentration of poverty and provides the greatest economic, social, and education opportunities to all residents of Hayward regardless of income; and

WHEREAS, on February 8, 2022, the Council declared the Parcel Group 8 properties "exempt surplus land" because the land will be transferred to provide affordable housing pursuant to Government Code Section 37364, as the sale of these parcels for the generation of housing is in the City's best interest as set forth in adopted Resolution 22-037; and

WHEREAS, on March 1, 2022, the State of California Housing and Community Development Department sent a letter to the City finding that Parcel Group 8 properties qualify as "exempt surplus land" under Government Code section 54221(f)(1), consistent with the City's adopted resolution 22-037; and

WHEREAS, on September 15, 2019, the Council authorized the City Manager to negotiate and enter into an Exclusive Negotiating Rights Agreement (ENRA) with the proposed Resources for Community Development (RCD), the developer's predecessor in interest; and

WHEREAS, after significant due diligence and site planning efforts, RCD successfully completed the obligations under the ENRA and on June 28, 2022, the City Council authorized the City Manager to negotiate and execute a Disposition Development and Loan Agreement for the development of a portion of the Parcel Group 8 parcels (the "Property"). RCD GP IV, LLC, a California limited liability company (the "Company") and Parcel Group 8, L.P., a California limited partnership (the "Partnership") (collectively, the "Developer") and the City entered into a Disposition, Development and Loan Agreement (the "Original DDA"); and

WHEREAS, the Original DDA contemplated the City would convey the Property to the Company to enable the Partnership to: (1) acquire a leasehold interest in 1.54 acres of property which are located within the City of Hayward and is vacant land (the "City Housing Parcels"); (2) acquire a fee interest in approximately 0.82 acres which are located within unincorporated Alameda County, which contain existing improvements (the "County Housing Parcel"); (3) develop up to 96 units of multifamily rental affordable housing on the City Housing Parcels; and (4) rehabilitate the eleven (11) units of naturally occurring

affordable housing located on the County Housing Parcel that will be available for occupancy by very low income households at an affordable rent; and

WHEREAS, in connection with the approval of the Original DDA, the City prepared a summary report called for under Government Code Section 52201 (the "Original Section 52201 Summary Report"), made the Original Section 52201 Summary Report available for public inspection and copying in compliance with Government Code Section 52201; and

WHEREAS, on June 28, 2022, City Council conducted a duly noticed public hearing on the Original DDA and the Original 52201 Summary Report pursuant to Government Code Section 52201, for the purpose of receiving the input and comments of the public on the Original DDA and the Original 52201 Summary Report and determined that the sale of the Property pursuant to the Original DDA would create economic opportunity, create affordable housing and job creation and furth the public purpose of economic development in the City;

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA") and its implementing guidelines, the approval of the Original DDA and construction of the improvements contemplated by the Original DDA was eligible for streamlined, ministerial approval pursuant to Government Code Section 65913.4, and was therefore exempt from review pursuant to Public Resources Code Section 21080(b)(1), which states the general rule that CEQA does not apply to ministerial projects;

WHEREAS, as further outlined in the Staff Report accompanying this Resolution and incorporated into this Resolution by this reference (the "Staff Report"), in 2023, the Developer requested revisions to the Original DDA to provide for the following: (1) update the schedule to cause Developer to acquire and financing the property by not later than December 31, 2026; (2) adjust the portion of City Loan funds allocated to predevelopment costs; (3) allow for increased flexibility in applying for funding sources due to the competitive nature of such sources; (4) allow for modifications to the residential unit mix and affordability levels to facilitate feasibility and success in financing applications; (5) cause the Partnership to construct and operate eighty-two (82) affordable residential units (including one manager's unit) and ancillary improvements, on the City Housing Parcels the "City Housing Improvements"; (6) cause the Partnership to rehabilitate the building with both residential units and the commercial space, that fronts Grove Street and is located on the County Housing Parcel and depicted on the site plan attached as Schedule 1 (the "Grove Mixed Use Building") and, (7) cause the Partnership to rehabilitate or develop other units and ancillary improvements on the County Housing Parcel (which, together with the Grove Mixed Use Building are the "County Housing Improvements"). At a minimum the County Housing Improvements will include rehabilitated residential units totaling the number of occupied units on the County Housing Parcel as of the Close of Escrow.

WHEREAS, if approved, the City and Developer will enter into the First Amendment to Disposition Development and Loan Agreement reflecting the above terms (the "First Amendment").

WHEREAS, in connection with the First Amendment, the City has placed on file an updated copy of the summary report called for under Government Code Section 52201 (the "Updated Section 52201 Summary Report"), and has made the Updated Section 52201 Summary Report available for public inspection and copying in compliance with Government Code Section 52201; and

WHEREAS, the transfers contemplated under the Original DDA, as amended by the First Amendment (collectively, 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, as further outlined in the Staff Report, the City has determined that the sale of the Parcel Group 8 housing site properties pursuant to the DDA as amended by the First Amendment will create economic opportunity and: (1) result in the development of 82 units of multifamily rental affordable housing on the City Housing Parcels; (2) result in the rehabilitation of certain naturally occurring affordable housing located on the County Housing Parcel; (3) result in job creation as a result of the anticipated construction of the new development, including approximately 89 full-time equivalent (FTE) temporary construction jobs, and an estimated 33 FTE permanent jobs with limited investment from the City; and (3) result in the public purpose of economic development by creating jobs, housing, 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 Updated Section 52201 Summary Report, the City is providing the Partnership with a \$2,000,000 loan and is transferring the property for \$0, the fair re-use determination based on estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed DDA that result in no residual land value; and

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

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA") and its implementing guidelines, the approval of the DDA and construction of the City Housing Improvements and rehabilitation of the County Housing Improvements is eligible for streamlined, ministerial approval pursuant to Government Code Section 65913.4, and are therefore exempt from review pursuant to Public Resources Code Section 21080(b)(1), which states the general rule that CEQA does not apply to ministerial projects;

NOW, THEREFORE, BE IT RESOLVED that the City Council finds that the above recitals are true and correct and have served, together with the Updated 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 Parcel Group 8 housing site properties pursuant to the DDA will create economic opportunity and result in (1) result in the development of 82 newly constructed units of multifamily rental affordable housing on the City Housing Parcels; (2) result in the rehabilitation of naturally occurring affordable housing located on the County Housing Parcel; (3) result in job creation as a result of the anticipated construction of the new development, including approximately 89 full-time equivalent (FTE) temporary construction jobs, and an estimated 33 FTE permanent jobs with limited investment from the City; and (3) result in the public purpose of economic development by creating jobs, housing, 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 Updated Section 52201 Summary Report 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 re-use value based on estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed DDA. This finding is based on the facts and analysis set forth in the Staff Report and the Updated Section 52201 Summary accompanying this Resolution.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52201, the City Council hereby approves the Updated Section 52201 Summary Report, in substantially the form on file with the City Clerk, and approved execution by the City Manager or her designee 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, the City finds and determines that the disposition and development of the Parcel Group 8 properties pursuant to the DDA is eligible for streamlined, ministerial approval pursuant to Government Code Section 65913.4, and therefore exempt from review pursuant to Public Resources Code Section 21080(b)(1), which states the general rule that CEQA does not apply to ministerial projects.

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

