

HAYWARD CITY COUNCIL

RESOLUTION NO. 25-\_\_\_\_

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 SECOND 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; 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 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; and

WHEREAS, On February 20, 2024 the City Council authorized the first amendment to the DDA to extend the required close of escrow date from December 31, 2024 to December 31, 2026 and revising the number and size of units in the development plan; and

WHEREAS, as further outlined in the Staff Report accompanying this Resolution and incorporated into this Resolution by this reference (the "Staff Report"), in 2025 the Developer requested revisions to the Original DDA to provide for the following: (1) Eliminates the temporary relocation option due to the expected extended length of displacements; (2) Gives eligible tenants priority placement on the future application lottery once the project is complete, (3) Increases moving incentives and assistance; and

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

WHEREAS, the transfers contemplated under the Original DDA, as amended by the First and Second 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.

NOW, THEREFORE, BE IT RESOLVED, that the City Council authorizes the City Manager or designee to execute the Second Amendment, 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 non-substantive 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 8 properties, and to close escrow on, as contemplated in the DDA.

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 \_\_\_\_\_, 2025

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