

HAYWARD CITY COUNCIL  
RESOLUTION NO. 24 - \_\_\_\_\_

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A NON-APPLICANT AGREEMENT WITH RESOURCES FOR COMMUNITY DEVELOPMENT OR ITS AFFILIATES IN CONNECTION WITH THE CALIFORNIA AFFORDABLE HOUSING SUSTANABLE COMMUNITIES NOTICE OF FUNDING AVAILAIBILTY AND THAT CERTAIN DISPOSITION DEVELOPMENT AND LOAN AGREEMENT, AS AMENDED, BETWEEN RCD GP IV LLC AND PARCEL GROUP 8, L.P. 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 City Council approved an amendment to the Original DDA on the same date as this Resolution (as amended, the "DDA");

WHEREAS, the DDA contemplates the City will 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 82 units of multifamily rental affordable housing on the City Housing Parcels (the "City Parcel Improvements"; and (4) rehabilitate existing improvements and develop other improvements on the County Housing Parcels (the "County Parcel Improvements");

WHEREAS, in order to finance the development of the City Parcel Improvements and the County Parcel Improvements, the sponsor of the Company and Partnership, Resources for Community Development ("RCD") is applying for Affordable Housing Sustainable Communities (the "AHSC") funding from the California Department of Housing and Community Development ("HCD") through HCD's Round 9 Notice of Availability of Funding for AHSC funds, dated December 12, 2023 (the "NOFA");

WHEREAS, in addition to financing the City Parcel Improvements and the County Parcel Improvements, the AHSC funds can be utilized for financing transportation improvements and amenities constructed by public agencies and the development of such improvements and amenities will make RCD's application for AHSC funding meet certain application thresholds and increase its competitiveness;

WHEREAS, the City desires to cooperate in RCD's AHSC application and enter into a non-applicant cooperation agreement with RCD (the "AHSC Agreement"), where the City will be able to provide its experience for certain transportation improvements and amenities, including a sidewalk and other public right of way improvements, in exchange for approximately \$1-\$2 Million in grant funding that will finance such improvements and/or amenities ("AHSC Grant Funds");

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, as the basis for the approvals set forth below.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to negotiate and execute the AHSC Agreement in order to access and utilize the AHSC Grant Funds and to facilitate the use of other AHSC funding for the City Parcel Improvements and the County Parcel Improvements;

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.

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 access and utilize the AHSC grant funds.

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 \_\_\_\_\_, 2024

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