

HAYWARD CITY COUNCIL

RESOLUTION NO. 22 –

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 TRUMARK PROPERTIES LLC FOR TRANSFER OF SPECIFIED CITY OWNED PROPERTIES AND FOR THE DEVELOPMENT OF HOUSING AND MAKING SPECIFIED FINDINGS IN ASSOCIATION THEREWITH CONSISTENT WITH PRIOR CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATIONS

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, as least 80% of the developable area of geographically clustered Parcel Groups 3 and 5 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 generation of mixed income housing in a comprehensive manner over Parcel Groups 3 and 5 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 Parcel Groups 3 and 5 "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 Groups 3 and 5 qualify as "exempt surplus land" under Government Code Section 54221(f)(1), consistent with the City's adopted resolution 22-037; and

WHEREAS, in 2019, the Council approved the issuance of a Request for Proposals (RFP) for the parcel located between Harder Road on the south, Carlos Bee Boulevard on the north, California State University East Bay on the east, and Central Boulevard on the west, referred to as "Parcel Group 5," 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, on December 13, 2019, the Council authorized the City Manager to negotiate and enter into an Exclusive Negotiating Rights Agreement (ENRA) with the proposed Developer (Trumark Properties LLC), based on their proposal to construct 74 single family housing units, certain accessory dwellings units and other improvements on or adjacent to the Parcel Group 5 property; and

WHEREAS, after significant due diligence and site planning efforts, the Developer submitted an application for development of seventy-four single family residential units, including eighteen accessory dwelling units that will be available for occupancy by very low income households at an affordable rent; and

WHEREAS, the application required approval of a zone change and tentative map, which was approved by the Planning Commission on March 24, 2022; and

WHEREAS, the City and the Developer 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 Developer for the disposition from the City to Developer for a total purchase price of \$14,000,000 for the following property; 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 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 74 single family housing units; (2) result in job creation as a result of the anticipated construction of the new development, including approximately 50-70 full-time equivalent (FTE) temporary construction jobs, and an estimated 5 permanent jobs without investment of City funds; and (3) result in the public purpose of economic development by creating jobs, housing, trail segment of Hayward Foothill Trail, 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 adopted a Master Development Plan for the Property on July 9, 2019 (the "Master Development Plan") and in connection with its approval of the Master Development Plan approved an Addendum to the previously certified 2014 General Plan Environmental Impact Report, as authorized under California Environmental Quality Act ("CEQA") Guidelines Section 15164, and Mitigation Monitoring and Reporting Program, including Errata to 2014 General Plan Update EIR MMRP.

NOW, THEREFORE, BE IT RESOLVED that the City Council 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 74 single family housing units, including eight accessory dwelling units available to occupancy by very low income households at an affordable rent; (2) job creation as a result of the anticipated construction of the new development, including approximately 50-70 full-time equivalent (FTE) temporary construction jobs, and an estimated five permanent jobs without investment of City funds; and (3) the public purpose of economic development by creating jobs, housing, and expansion of a public trail 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 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 5 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 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 5 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 \_\_\_\_\_, 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