

**SUMMARY REPORT PURSUANT TO GOVERNMENT CODE SECTION 52201  
ON THE DISPOSITION AND DEVELOPMENT AGREEMENT BY AND  
BETWEEN THE CITY OF HAYWARD AND EDEN HOUSING, PACIFIC WEST  
COMMUNITIES AND STRATEGIC GROWTH PARTNERS.**

I. Introduction.

The City of Hayward (the "City"), has prepared a summary report (the "Summary Report") as required by Section 52201 of the Government Code, with regards to the City's proposed execution of a Disposition and Development Agreement ("DDA") by and between the City and Eden Housing, Inc., a California nonprofit public benefit corporation and Pacific West Communities, Inc., an Idaho corporation (collectively, the "Affordable Developer"), and Strategic Growth Partners, Inc., an Idaho corporation (the "School Developer"), and Eden Housing, Inc., a California nonprofit public benefit corporation and Pacific West Communities, Inc., an Idaho corporation (collectively, the "SF Parcel Owner") for the sale of specified parcels of real property to the Affordable Developer, School Developer, and SF Parcel Owner, respectively.

Government Code Section 52201, authorizes the City, to sell or lease property to which it holds title for the purpose of creating economic opportunity. The City must first secure approval of the proposed sale from the City Council after a public hearing. A copy of the proposed DDA and a summary report that describes and contains specific financing elements of the proposed transaction is required to be available for public inspection prior to the public hearing. As contained in the Code, the following information is included in the summary report:

- The cost of the DDA to the City, including land acquisition costs, clearance costs, relocation costs, and the costs of any improvements to be provided by the City, plus the expected interest on any loans or bonds to finance the agreement;
- The estimated value of the interest to be conveyed, determined at the highest and best use permitted under the general plan and zoning;
- The estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed DDA, i.e., the fair reuse value of the property;
- An explanation of why the sale of the property will assist in the creation of economic opportunity;
- If the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the City must provide as part of the summary an explanation of the reasons for the difference.

In addition to the authority granted to it under Government Code Section 52201, the City is also acting pursuant to authority granted to it under Government Code Section 37350, which provides that a city may purchase, lease, receive, hold, and enjoy real and personal property and control and *dispose* of it for the common benefit.

## II. Summary of Proposed Agreement.

The proposed Development described in the DDA is a mixed use approximately one hundred seventy-six (176) multifamily rental housing units for occupancy by individuals or families whose income is at or below 80% AMI (the "Affordable Development"); and (2) the development of a 2-story, approximately 36,000 square foot, school building (the "School Development") (the "Proposed Project").

The salient aspects of the proposed DDA are summarized as follows:

- The City commits to transfer Affordable Housing Site to the Affordable Developer to facilitate the construction of the Affordable Development.
- The City commits to transfer the School Site to the School Developer to facilitate the development of the School Development.
- The City commits to transfer the Single Family Parcels to the SF Parcel Owner.
- The City will retain the Open Space Parcel.
- The City will convey the properties to the Developers in fee in its "as-is" condition.
- The Affordable Developer will pay the City \$1,988,171 for the Affordable Housing Site, the School Developer will pay the City \$1,037,829 for the School Site, and the SF Parcel Owner will pay the City \$525,000 for the Single Family Parcels in the form of cash payment.
- The Affordable Developer and School Developer propose to construct the Proposed Project.
- The City is not required to make any form of financial or other assistance to the Developer.
- The Proposed Project will be subject to and must comply with the requirements of the City's Inclusionary Housing Ordinance.
- The Affordable Developer has agreed to record a Voluntary Affordable Housing Covenant under which the Affordable Developer voluntarily irrevocably restricts, in perpetuity, one hundred percent (100%) of the units of the Affordable

Development (except the Manager's Units) for occupancy by very-low, low- and moderate income households.

- The School Site will be subject to and must comply with the requirements of a School Site Restrictive Covenant Agreement which limits the use of the School Site for the construction and operation of the School Development, and for any public serving purposes, including but not limited to affordable housing and recreational facilities, and for uses allowed under the New Markets Tax Credits program; and prohibits the use of the School Site for any Excluded Business (as defined in the School Site Restrictive Covenant Agreement) or for private market rate residential development.
- The DDA requires all net proceeds from the sale of the Single Family Parcels to be contributed by the SF Parcel Owner to the Affordable Developer in the form of a capital contribution or equity.

### III. Cost of Agreement

This section presents the total estimated cost of the DDA to the City. Pursuant to California Government Code Section 52201 (a)(2)(B)(i), the cost of the DDA to the City includes all land acquisition costs, clearance costs, relocation costs, the cost of any improvements to be provided by the City, plus the interest on any loans or bonds to finance project under the terms of the DDA. The net cost can be either an actual cost, when expenditures exceed receipts, or a net gain, when revenues created by implementation of the Agreement exceed expenditures.

The estimated total cost to the City is projected to be less than the Purchase Price received from the Developer. The Caltrans agreement requires that the City make a repayment of \$2,300,000 purchase price for the properties.

The City's holding costs for the properties is de minimis.

The City has or expects to incur approximately \$25,000 to \$50,000 on internal staff costs and approximately \$50,000 and \$75,000 on third party costs, including; broker fees, legal fees, consulting fees, and other fees associated with the negotiation of the DDA and associated land transfer documents.

The City does not expect to incur any relocation costs. If any relocation obligations arise, the Developer has agreed to provide to pay for any relocation costs incurred as a result of the implementation of the DDA.

### IV. Estimated Highest and Best Use Value of the Interest to be Conveyed

Section 52201 requires the City to identify the value of the interest being conveyed at the highest use permitted under the general plan and zoning in place on the property. The valuation must be based on the assumption that the Property is vacant, and that near-term

development is required. The highest and best use of a property, is that use of the property that generates the highest property value and is physically possible, financially feasible, and legally permitted. The valuation does not take into consideration any extraordinary use, quality, and/or income restrictions being imposed on the development by the City. The value at highest and best use is based solely on the value created and not on whether or not that use carries out the development goals and policies for the City as set forth in the DDA.

This section presents an analysis of the fair market value of the properties to be conveyed at its highest and best use. This section explains the value of the properties to be sold to the Developers and the consideration being provided by the Developers. The section indicates that the consideration being provided is not less than the highest and best use value of the properties being conveyed.

The City and Caltrans obtained an appraisal for the property in its existing condition with its current land use designations which valued the property at approximately \$2,300,000. The purchase price of \$3,552,000 being paid by the Developers is based on the parties negotiation of the Property value taking into account the appraised value of the properties that are being conveyed as well as the impact on value of the properties resulting from the a use consistent with the Proposed Project.

#### V. Estimated Fair Re-Use Value of the Interest to be Conveyed

In calculating the fair re-use value, re-use value is defined as the highest price in terms of cash or its equivalent which a property or development right is expected to bring for a specified use in a competitive open market, subject to the covenants, conditions, and restrictions imposed by the DDA. The DDA covenants, conditions, or restrictions on the use of: (1) the Affordable Housing Site are contained in the Regulatory Agreement; and (2) the School Site are contained in the School Site Restrictive Covenant Agreement. While the covenants, conditions, or restrictions contained in the Regulatory Agreement and School Site Restrictive Covenant Agreement may impact the value of the respective properties to which they apply, the DDA; nonetheless requires the Developers to purchase the properties for the fair market value, at its highest and best use.

#### VI. Explanation of the Difference (if any) between the Compensation to be paid to the City under the DDA and the Fair Market Value of the Property

Under Section 52201, the City is required to explain if the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the City must provide as part of this Summary Report an explanation of the reasons for the difference. In this instance, there is no difference. The City will receive up to \$3,552,000 in compensation for the transfer of the properties, which exceeds the appraisal and is the estimated value of the properties at the highest and best use. The City fully expects that the Purchase Price received from the Developers will not be less than the costs paid by the City for the properties and the costs of the agreement summarized in Section III, above.

## VII. Creation of Economic Opportunity

The Proposed Project, when constructed, will create economic opportunity in the City of Hayward. Section 52200.2 defines "economic opportunity" as any of the following:

- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that create, retain, or expand new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of City investment in the project after full capacity and implementation;
- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that increase property tax revenues to all property tax collecting entities, by at least 15 percent (15%) of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the government entity;
- Creation of affordable housing;
- Projects that meet the goals set forth in Chapter 728 of the Statutes of 2008 and have been included in an adopted sustainable communities strategy or alternative planning strategy or a project that specifically implements the goals of those adopted plans; or
- Transit priority projects, as defined in Section 21155 of the Public Resources Code.

The City is not providing any form of financial assistance to the Developers. The City, however; has nonetheless identified the following benefits that will result from implementation of the DDA and will create economic opportunity as defined in Government Code Section 52200.2.

### A. Creation of Affordable Housing

The creation of affordable housing to meet demonstrated affordable housing needs identified in the housing element of the City's general plan constitutes and economic opportunity. The Proposed Project will be subject to the requirements of the City's Inclusionary Housing Ordinance and will thus increase, improve, or preserve the supply of quality affordable housing in the community. The Affordable Development will create a total of units of 176 affordable housing (including one unrestricted manager's unit).

### B. Job Creation

Under Section 52200.2(a) economic opportunity is achieved is an agreement results in the creation, retention or expansions of new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of City investment in the

project. As previously discussed, the City is not providing any financial assistance for the Proposed Project. Nevertheless, the sale of the Property under the DDA will result in job creation as a result of the anticipated construction of the Affordable Housing Development and the School Development. During the construction of the Proposed Project, it is anticipated approximately 415 full-time equivalent (FTE) temporary construction jobs. Upon completion and full implementation, the Proposed Project is also anticipated to generate an estimated 60 permanent jobs without investment of City funds.

C. Public Purpose

The transfer of the properties and construction of the Proposed Project will further the public purpose of economic development by creating jobs, affordable housing, and school 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.