

**SUMMARY REPORT PURSUANT TO GOVERNMENT CODE SECTION 52201  
ON THE PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE  
CITY OF HAYWARD AND TRUMARK PROPERTIES LLC**

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 Trumark Properties LLC, a California limited liability company, and its permitted successor and assigns (the "Developer"), for the sale of approximately 37.46 acres of real property 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, commonly referred to as Caltrans Parcel Group 5 (the "Property") to the Developer.

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; and
- 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: (1) Government Code Section

14528.5 which governs the SR 238 parcels; (2) 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; and (3) Government Code Section 54221, which governs surplus lands.

## II. Summary of Proposed Agreement.

The proposed development described in the DDA is a 74 single family home residential development where at least eighteen of the units will include accessory dwelling units to be made available for occupancy by very low income households at an affordable rent (the "Proposed Project"). As part of the Proposed Project, Developer will also construct improvements for the Foothill Trail, which will consist of an approximately 3,000 linear feet segment of the 16-foot wide Hayward Foothill Trail along the eastern boundary of the Property, connecting to the California State University East Bay campus.

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

- The City commits to transfer "Property" as defined in the DDA to the Developer.
- The City will convey the Property to the Developer in fee in its "as-is" condition.
- The Developer will pay the City \$14,000,000 for the Property in the form of cash payment, which reflects access to Carlos Bee Boulevard;
- The City is not required to make any form of financial or other assistance to the Developer for the completion of the Proposed Project;
- The Proposed Project will be subject to and must comply with the requirements of the City's Inclusionary Housing Ordinance and will result in eighteen accessory dwelling units that will be restricted for occupancy by very low income households as well as in lieu payments consistent with the ordinance.
- Developer will construct a 3,000 linear feet segment of the 16-foot wide Hayward Foothill Trail along the eastern boundary of the Property.

## 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 the 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 significantly less than the Purchase

Price received from the Developer. The Property to be transferred to the Developer will consist of approximately 37.46 acres acquired by the City from Caltrans. The City currently owns the Property. The City has an agreement with Caltrans related to the acquisition of a various properties, including among others, the Property to be conveyed to the Developer. The Caltrans agreement requires that the purchase price for the Property be negotiated between the City and Caltrans. The purchase price paid to Caltrans has been finalized at \$11,100,000 and therefore, does not exceed the purchase price being paid by the Developer for the property.

The City's holding costs for the Property is de minimis and the City has not incurred any costs associated with the Property.

The City has or expects to incur approximately \$25,000 to \$50,000 on internal staff costs which will be funded through the purchase price. The City's 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 have been paid for by the Developer through a reimbursement agreement. All costs to the City associated with the processing of entitlements for the Proposed Project are also being paid solely by the Developer.

The City has not incurred any demolition costs.

#### 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 Property at its highest and best use. This section explains the value of the Property to be sold to the Developer and the consideration being provided by the Developer. The section indicates that the consideration being provided is not less than the highest and best use value of the Property.

The City and Caltrans conducted previous appraisals for the property and the City retained a financial consultant to review the proposed valuation of the property based on a residual land value analysis in its existing condition with its current land use designations which determined that the purchase price of approximately \$14,000,000 represents fair market value for the Property. The purchase price being paid by the Developer is based on the parties' negotiation of the Property value taking into account

the aforementioned financial evaluation and previous appraisals of the Property as well as the impact on value of the Property resulting from entitlement of the Project Site for the 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 requires the Developer to purchase the Property 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 \$14,000,000 in compensation for the transfer of the Property, which is the estimated value of the Property at its highest and best use and exceeds the \$11,100,000 Caltrans purchase price based on previous appraisals. The City fully expects that the Purchase Price received from the Developer will not be less than the costs paid by the City for the Property 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 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 Developer. The City, however, has 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. Increased Property Taxes

Currently, the property subject to the DDA does not generate property tax revenues, and because all the Property has been in under the ownership of a governmental entity. The property tax revenue the year prior to the property being acquired by the City was \$0. Upon transfer to the Developer under the DDA, the assessed value of the Property will change from \$0 to up to \$14,000,000 and will result in estimated property tax payments of approximately \$140,000, in its unimproved state.

The sale of the Property to the Developer is estimated to cause the following increase in the property tax revenue:

Assessed Value at Date of Acquisition		\$0.00
Property Tax Rate	1.0%	\$0.00
Estimated Property Tax Revenue		\$0.00
Assessed Value after sale to the Developer (unimproved state)		\$14,000,000.00
Property Tax Rate	1.0%	
Estimated Property Tax Revenue (unimproved state)		\$140,000
Increase in Property Tax Revenue to Taxing Entities		\$140,000

The change in assessed value will result in an increase of more than 15% prior to the full implementation of the project. It further is anticipated that the completion of the Proposed Project will further increase the Property's assessed value to more than \$89 million, resulting from the project at full implementation. Nevertheless, based on the change in property tax revenues in an unimproved state, it can be concluded that after full project implementation, the Proposed Project will increase property tax revenues to all property tax collecting entities, by more than 15 percent (15%) when compared to the year prior to the property being acquired by the government entity and the condition of Section 52200.2(b) will be satisfied.

The Developer intends to develop the approximately \$89 million Proposed Project on the Project Site. The assessed value of the Project Site will result in additional benefits to the City.

#### B. 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 an economic opportunity. The Proposed Project will be subject to the requirements of the City's Inclusionary Affordable Housing Ordinance and will thus increase, improve, or preserve the supply of quality affordable housing in the community.

Under the approvals the Developer is allowed to develop a single family residential development project on the Property consisting of seventy-four (74) single family for-sale housing units, of which eight (8) will have accessory dwelling units that will be made available for occupancy by very low income households at an affordable rent. The Developer will also be paying in lieu housing fees applicable to the project, as laid out in the DDA. The City has determined that the project is consistent with Section 10-17.205 which provides the unit threshold and basic requirements applicable to ownership residential projects, including alternative methods of compliance, like the one proposed to be constructed. The Developer and City will record an Inclusionary Housing Agreement that will ensure the development of the affordable units is completed in accordance with the terms of the City approved phasing plan for the Proposed Project.

#### C. Job Creation

Under Section 52200.2(a) economic opportunity is achieved if an agreement results in the creation, retention or expansion 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 and no part of the development costs for the Proposed Project will be publicly subsidized.

Nevertheless, the sale of the Property under the DDA will result in job creation as a result of the anticipated construction of the development. During the construction of the Proposed Project, it is anticipated that 50-70 full-time equivalent (FTE) temporary construction jobs will be created. Upon completion and full implementation, the Proposed Project is also anticipated to generate an estimated 5 permanent jobs without investment of City funds.

#### D. Public Purpose

The transfer of the Property and construction of the Proposed Project will further the public purpose of economic development by creating jobs, market rate and affordable homes, parks, trail segment of the Hayward Foothill Trail, and 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.