



DATE: June 1, 2021

TO: Mayor and City Council

FROM: Assistant City Manager/Development Services Director

SUBJECT: Adopt a Resolution Authorizing the City Manager to Negotiate and Enter into an Amendment to Extend the Exclusive Negotiating Rights Agreement with Trumark Properties (Caltrans Parcel Group 5)

RECOMMENDATION

That the Council adopts the attached resolution (Attachment II) authorizing the City Manager to negotiate and enter into an amendment to extend the Exclusive Negotiating Rights Agreement (ENRA) with Trumark Properties until June 16, 2022, allowing the developer to complete entitlements and negotiate a Disposition and Development Agreement (DDA) for a 74-lot subdivision including eight deed restricted affordable Accessory Dwelling Units on the former Route 238 Parcel Group 5: Bunker Hill.

SUMMARY

The City of Hayward entered into a Purchase and Sale Agreement (PSA) with the California Department of Transportation (Caltrans) in January 2016 to manage the disposition and development of former right of way for the now defunct 238 Bypass. This land is divided into 10 parcel groups and must be disposed of by 2027. This report covers Parcel Group 5.

On July 17, 2019, the Council adopted a resolution approving a Master Development Plan (MDP), certifying an Addendum to the 2014 General Plan Environmental Impact Report (2014 GP EIR) and approving issuance of a Request for Proposals (RFP) from developers to entitle and construct a 74-lot subdivision including eight deed restricted affordable Accessory Dwelling Units (ADUs) and related site improvements.

On December 16, 2019, the Council adopted a resolution authorizing the City Manager to negotiate and enter into an Exclusive Negotiating Rights Agreement (ENRA) with Trumark Properties (Development Team) to design and entitle the development project and to negotiate the DDA. Per the terms of the ENRA, it was extended on December 16, 2020 and again on March 17, 2021.

On August 6, 2021, the Development Team submitted an entitlement application based on the MDP; however, further geotechnical and feasibility analysis conducted after that submittal

revealed that there are slope stability issues, fault setbacks, landslide removal requirements, and other geotechnical issues not known or in the initial entitlement submittal. Since that initial submittal, the Development Team has worked diligently to understand and resolve the geotechnical issues to ensure that the development can remain as similar to the proposed development plan while remaining feasible.

The applicant resubmitted the entitlement package with supporting geotechnical analysis on May 17, 2021. Given the amount of cost and effort expended thus far in analyzing and working through these issues, as well as the applicant's commitment to moving the entitlement forward, staff recommends authorizing the City Manager to enter into an amendment to extend the ENRA with the Development Team for six months to December 16, 2021, with two 90-day administrative extensions at the City's sole discretion which, if exercised, would extend the ENRA to June 16, 2022.

The proposed Project will add a total of 74 above market units and eight deed restricted low-income units to the City's housing stock, which would bring the City about 1.5% closer to the RHNA goal for low-income households. In addition, the project proponent will pay \$2 million of housing in lieu fees, which will subsidize affordable housing developments in the City's pipeline.

BACKGROUND

Route 238 Corridor Lands Development

In the mid-1960s, the California State Department of Transportation (Caltrans) purchased more than 400 parcels of property for the construction of a 14-mile Route 238 Corridor Bypass Freeway to run through the City of Hayward and parts of unincorporated Alameda County. In 1971, a lawsuit, filed in federal court on behalf of residents to be displaced by the freeway construction, blocked the project. Caltrans subsequently abandoned the freeway plan and began to individually auction off these properties with the sole purpose of disposing of the land, without any larger land use or community considerations. To ensure the productive development of this land in a manner that maximizes land value, while balancing the desires of the surrounding neighborhood and larger community, the City entered into a PSA with Caltrans to manage the disposition and development of these properties. The PSA divides the properties into 10 parcel groups, which must be disposed of by 2027. Table 1 below provides the current status of these parcel groups.

TABLE 1: STATUS OF 238 PARCEL GROUPS

PARCEL GROUP	STATUS	ENTITY	EST. DISPOSITION TIMELINE	ESTIMATED UNIT COUNTS	AFFORDABLE UNIT COUNT
1 & 10	Sold / Under Construction	William Lyon Homes (SOHAY)	August 2018	472 (approved)	48 (approved)
2	Executed Purchase & Sale Agreement	The True Life Companies (Mirza)	June 2020	189 (approved)	20 (approved)
3	Under Negotiation	Eden Housing and The Pacific Companies	Winter 2021	180	180
4	Under Negotiation	Eden Housing and The Pacific Companies	Winter 2021	3	0
5	Under Negotiation	Trumark Properties, LLC	Fall 2020	82	8
6	Under Negotiation	Integral	Spring 2022	300	30
7	Sold	One Subaru of Hayward	June 2020	0	0
8	Master Development Planning	Resources for Community Development	Winter 2021	196	96
9	Master Development Planning	City of Hayward	Winter 2021	TBD	TBD
TOTAL				1,422	382¹

Parcel Group 5

Parcel Group 5 encompasses Maitland Drive, Bunker Hill Blvd., Bunker Hill Court, and a portion of Central Blvd. The roughly 37-acre Parcel Group 5 is bounded by the Westview Drive neighborhood to the west, CSUEB and Carlos Bee Blvd. to the north and Harder Road to the south. The area is sloped and was previously developed with 32 single family homes, all of which were abated and demolished between 2018-2020. The site is currently vacant.

All the parcel groups have been acquired pursuant to the Caltrans PSA. The City's obligation to make the payment of the purchase price for the properties does not occur until the City has resold the parcels to developers. The PSA sets forth an agreed upon methodology to determine the sales price for each parcel group.

Requests for Extensions

As noted above, following execution of the initial ENRA, the Development Team submitted an entitlement application based on the Master Development Plan. However, the geotechnical and feasibility analysis that was conducted after submittal of the entitlement application revealed significant slope stability issues, fault setbacks, landslide removal requirements, and other geotechnical issues that were not known or accounted for in the Development Team's original proposal in response to the City's RFP and in the initial entitlement submittal.

During the ENRA period, the Development Team has been working diligently with City Engineering staff to resolve the geotechnical issues to ensure that the development can remain as similar to the proposed development plan and original proposal as possible in

¹ Staff estimates 18% of total Route 238 Corridor Lands Development residential units will be affordable.

numbers of units and community amenities while remaining financially feasible. Accounting for these issues, the applicant resubmitted the site plan with geotechnical analysis on May 17, 2021. The Development Team feels confident that the major issues and site constraints are now known and that they can develop the site generally in accordance with the adopted MDP.

DISCUSSION

Key Elements of ENRA Extension Terms

The primary terms of the ENRA remain in place, with the following change in key terms recommended for approval for the ENRA Extension:

1. *Negotiating Period* – Through June 16, 2022, which includes two 90-day administrative extensions by City Manager possible if Developer is showing progress on meeting performance responsibilities, and additional non-refundable negotiating deposits are made per #2.
2. *Extension Payments* – \$10,000 will be required for each 90-term extension approved by City Manager, which is applicable to the purchase price, if a DDA is adopted and retained by City if the project is terminated.

Housing Element Compliance and Progress Reports

Local jurisdictions report their progress meeting their RHNA goals. Table 2 (below) reflects the progress made towards meeting Hayward's RHNA goal as of the last report year (2019), estimated progress based on number of units entitled, and progress based on projects seeking approval, for the period between 2015-2023. Table 3 provides the income limits associated with each income category for Alameda County. Permits to construct the units must be issued in order to count toward the City's RHNA goals.

The proposed Project will add a total of 74 above market units and eight deed restricted low-income units to the City's housing stock, which would bring the City about 1.5% closer to the RHNA goal for low-income households. In addition, the project proponent will pay \$2 million of housing in lieu fees, which will subsidize affordable housing developments in the City's pipeline. Additionally, the project helps the City meet the following goals established in the City's Housing Element:

- Assist in the development of housing affordable to low- and moderate-income households; and
- Promote equal housing opportunities for all persons.

TABLE 2. 2015 -2023 RHNA GOAL PROGRESS IN THE CITY OF HAYWARD

Income Category*	Unit Goal	Reported 2019		Approved		Pending** Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal
Very low	851	65	8%	203	24%	88	10%	356	42%	495	58%
Low	480	153	32%	70	15%	122	25%	345	72%	135	28%
Moderate	608	72	12%	54	9%	10	02%	136	22%	472	78%

* The City has achieved the Above Market Rate housing goals for the 2015-2023 RHNA cycle.

** The project units are not reflected in the above table because the entitlement application is still pending.

TABLE 3. INCOME LIMITS BY INCOME CATEGORY AND HOUSEHOLD SIZE FOR ALAMEDA COUNTY AS ESTABLISHED BY CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Income Category	Household Size							
	1	2	3	4	5	6	7	8
Extremely Low 30% AMI*	\$28,800	\$32,900	\$37,000	\$41,100	\$44,400	\$47,700	\$51,000	\$54,300
Very low 50% AMI*	\$47,950	\$54,800	\$61,650	\$68,500	\$74,000	\$79,500	\$84,950	\$90,450
Low 80% AMI*	\$76,750	\$87,700	\$98,650	\$109,600	\$118,400	\$127,150	\$135,950	\$144,700
Median 100% AMI	\$87,900	\$100,500	\$113,050	\$125,600	\$135,650	\$145,700	\$155,750	\$165,800
Moderate 120% AMI	\$105,500	\$120,550	\$135,650	\$150,700	\$162,750	\$174,800	\$186,850	\$198,900

* Percent area median income (AMI) is used to identify income and rent levels; however, the method for calculating income limits involves assessment of multiple data points and is not necessarily a percent of the median income. For more information see <https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/income%20limits%202021.pdf>

ECONOMIC IMPACT

No property taxes are currently being paid on these parcel groups. Resale of the parcel groups may partially return them to the tax rolls, provide an opportunity for new residential development needed to address the goals of the Housing Element, and provide a dedication of open space.

FISCAL IMPACT

This is the initial phase of potential property disposition and development. There are no anticipated fiscal impacts with the ENRA/DDA negotiations as the developer deposit will pay for staff time and consulting costs. The estimated amount of new tax revenue that will be

generated will be estimated at the conclusion of the negotiating period when the number of housing units has been identified.

SUSTAINABILITY FEATURES

The proposed development will comply with the City's Reach Code which prohibits new gas connections for utilities and includes minimum EV ready parking spaces. In addition, the project will be required to install solar panels and will generally incorporate green building standards into design and operation of the project per the RFP.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Grow the Economy. Specifically, this item relates to the implementation of the following project(s):

Project 5, Part 5.a and 5b: Facilitate disposition and development of Route 238 Corridor lands; Finalize planning on redevelopment of 6 remaining parcel groups; Finalize disposition and development agreements for all parcels.

PUBLIC CONTACT

No public notice is required with this action. Community outreach is being conducted throughout the entitlement review process. City staff and the applicant have held several neighborhood and individual meetings to allow neighbors to review the entitlement submittal documents. There will be standard hearings before the Planning Commission and City Council as the City considers the necessary approvals for the proposed project.

NEXT STEPS

Subsequent Actions and Estimated Timing

The following Table 5 is a summary of the proposed schedule. These dates will be subject to discussion with the developer and may change during negotiations of the DDA.

TABLE 5: PROPOSED DEVELOPMENT SCHEDULE

ITEM	ESTIMATED TIMING
Council Approves Amendment of Exclusive Negotiating Rights Agreement to Extend Agreement	June 1, 2021
Community Outreach	Continues throughout
City Approvals Complete	December 2021
Approval of DDA	December 2021
Submittal of Large Lot Final Map	February 2022
Submittal of Grading Permit	March 2022
Close on Land	July 2022

Prepared by: Leigha Schmidt, Acting Principal Planner

Recommended by: Jennifer Ott, Assistant City Manager/Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager