



CITY OF HAYWARD

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Cover Memo

File #: CONS 22-642, **Version:** 1

DATE: November 15, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Development Services Director

SUBJECT

Adopt a Resolution Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Trumark Properties, LLC to Allow Deferral of the Excess Purchase Price Above the Caltrans Base Purchase Price Until Issuance of Certificates of Occupancy for the Transfer of Parcel Group 5, Bunker Hill

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute the First Amendment to the Disposition and Development Agreement (DDA) with Trumark Properties, LLC allowing for deferral of the excess purchase price above the Caltrans base purchase price until issuance of certificate of occupancy for the transfer of Parcel Group 5, Bunker Hill.

SUMMARY

After abandoning the State Route 238 Bypass Project in the 1970s, Caltrans began selling parcels that had previously been acquired for the planned freeway. In order to ensure that future development of the State Route 238 parcels located in Hayward align with the City's land use policies and overall vision, the City negotiated a Purchase and Sale Agreement (PSA) with Caltrans to assume responsibility for the sale of some of these properties to private developers. The City-controlled State Route 238 properties are divided into ten "parcel groups." The 37.75-acre parcel group located west of the California State University Easy Bay (CSUEB) Campus between Carlos Bee Boulevard and Harder Road, referred to as "Parcel Group 5," is the subject of this staff report.

In July 2019, the Council approved the Master Development Plan for Parcel Group 5 and the issuance of a Request for Proposals (RFP) from developers for development of Parcel Group 5. In December 2019, the Council authorized the City Manager to negotiate and enter into an Exclusive Negotiating Rights Agreement (ENRA) with the preferred developer, Trumark Properties (Developer), based on their proposal to construct a development consistent with the Master Development Plan.

The project proposed by the Developer included development of a new 74-lot residential subdivision with eighteen accessory dwelling units deed restricted for very low-income households, consistent with the adopted Parcel Group 5 Master Development Plan. On March 24, 2022, the Planning Commission

recommended that the Council approve the project. On April 19, 2022, the project was approved in conjunction with the approval of a DDA for the transfer of Parcel Group 5, Bunker Hill, from the City to the Developer for \$14 million.

Since approval of the DDA, the Developer notified the City of significant feasibility issues related to the increase in construction and financing costs due to inflation, and continuing increases in interest rates, which have affected both market demand from potential homebuyers and direct financing costs for the Developer. As a result, the Developer requested an extension of the land transfer and other project milestones outlined in the DDA to allow time for interest rates to stabilize, to value-engineer the housing development, and to explore other potential cost saving measures. Consistent with the DDA, on October 3, 2022, the City Manager granted an extension of the DDA milestones for three months to March 1, 2023 with the potential to extend for additional time, if needed.

In addition to the time extension granted by the City Manager, staff is also recommending that the Council authorize the City Manager to negotiate and execute a first amendment to the DDA with the Developer to allow for deferral of the excess purchase price above the Caltrans base purchase price until issuance of certificate of occupancy for the transfer of Parcel Group 5, if needed to make the project feasible. The deferral of the excess sales proceeds to the City reduces the Developer's financing and carrying costs, which helps the Developer improve the feasibility of the Parcel Group 5 development.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution