



CITY COUNCIL STAFF REPORT

ITEM NO. 7.1

DATE: July 28, 2025

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution ratifying, reaffirming, and readopting the Amended and Restated Disposition, Development and Loan Agreement with Eden Housing, Inc., excluding the construction of and improvements to Veterans Park.

RECOMMENDED ACTION

Staff recommends the City Council:

1. Adopt a resolution ratifying, reaffirming, and readopting the Amended and Restated Disposition, Development and Loan Agreement with Eden Housing, Inc., excluding the construction of and improvements to Veterans Park, and acknowledging that the agreement remains in effect as of the date it was signed; and
2. Direct the Planning Manager to file a Notice of Exemption, in accordance with the provisions of the California Environmental Quality Act, subject to approval of the resolution.

SUMMARY

The recommended action will ratify, reaffirm, and readopt the Amended and Restated Disposition, Development and Loan Agreement with Eden Housing, Inc., excluding provisions related to the construction of, and improvements to, Veterans Park. The recommended action further acknowledges that the agreement remains in effect as of the date it was signed, May 24, 2022.

The recommended action was previously approved by the City Council on June 24, 2024 (Resolution No. 2024-019). However, the resolution was challenged as being premature on the grounds that one year period in Elections Code Section 9241 had not expired since Resolution No. 2022-085 was repealed. The City and Eden Housing, Inc. disagree that the resolution was premature and disagree that Elections Code Section 9241 applies to the resolution, and they are awaiting a decision by the Appellate Court. Regardless, more than one-year has expired since June 24, 2024, thereby allowing the City Council to retake the action in Resolution No. 2024-109 even if the California Elections Code applies.

The recommended action will allow Eden Housing, Inc. to proceed in obtaining final construction financing to implement the workforce affordable housing project pursuant to the terms of the agreement,

while excluding any work related to Veterans Park. A comprehensive history of Veterans Park can be found in the June 24, 2024, City Council report. Veteran's Park was approved by the City Council in 2018 has been in the City's Capital Improvement Plan since 2021 to be constructed with park fees. Veterans Park remains a key component of the approved Downtown Plan that will be constructed by the City in the future separately from the workforce housing project. The final design of Veterans Park has not yet been approved.

DISCUSSION

BACKGROUND

On January 29, 2018, the City Council approved the 2018 Downtown Plan for the development of portions of the Livermore Village Site to include:

- Stockmen's Park
- Up to 130 units of workforce housing
- A science center
- A black box theater
- Retail space
- A linear public park (that would come to be known as Veterans Park)

On November 26, 2018, the City Council approved the Disposition, Development and Loan Agreement to sell a portion of the Livermore Village Site to Eden Housing, Inc. to develop a multi-family affordable rental housing project with up to 130 units of workforce housing on an approximately 2-acre parcel located southeast of the Railroad Avenue and L Street intersection (Location Map - Attachment 1).

On May 24, 2021, the City Council approved an Amended Disposition, Development and Loan Agreement with Eden Housing, Inc. to clarify certain terms and conditions, including the property being transferred. The amendment also reflected that the Veterans Park parcel would remain under the City's ownership and that Eden Housing, Inc. would coordinate with the City to allow for the development of a City-owned, publicly accessible community park space that would be open and available to the general public and named "Veterans Park." Veterans Park was in addition to Stockmen's Park that occupies a different portion of the Livermore Village Site. The amended agreement also provided an option for the City to negotiate a future construction and reimbursement agreement with Eden Housing, Inc. to coordinate the construction of Veterans Park.

On May 23, 2022, the City Council approved Resolution No. 2022-085, authorizing the execution of an Amended and Restated Disposition, Development and Loan Agreement with Eden Housing, Inc. to make targeted changes following the delay caused by a failed lawsuit challenging the entitlements for Eden Housing's affordable housing project. The adoption of Resolution No. 2022-085 also approved language for the construction of and improvements to Veterans Park by Eden Housing, Inc.

On July 9, 2022, Move Eden Housing presented a petition against Resolution 2022-085 to the City Clerk for processing as a referendum, leading to litigation which proceeded through both the Trial Court and the Appellate Court over the next two years. For a detailed administrative record, timeline of the referendum petition process, and comprehensive analysis of the court proceedings and their outcomes, please refer to the June 24, 2024, City Council Staff Report (Attachment 2).

On March 6, 2024, the Appellate Court found that the primary substantive decisions relating to the

housing aspects of the Amended and Restated Disposition, Development and Loan Agreement were not subject to referendum because they were made years before Resolution No. 2022-085 was adopted; however, the portions approving the construction of and improvements to Veterans Park were subject to referendum as that was determined to be a legislative act. The Alameda County Registrar of Voters processed the referendum and issued a notice of sufficiency after examining the signatures, which presented the City Council with the decision to either repeal the resolution or call for an election.

On June 24, 2024, the City Council adopted resolutions to accept the Alameda County Registrar of Voters' certification of the referendum petition against Resolution No. 2022-085 and to repeal Resolution No. 2022-085 (Resolution No. 2024-107 and 2024-108, respectively). At the same meeting, the City Council adopted a companion resolution (Resolution No. 2024-109) to ratify, reaffirm, and readopt the Amended and Restated Disposition, Development and Loan Agreement with Eden Housing, Inc, excluding the construction of, and improvements to, Veterans Park, and acknowledging that the agreement remains in effect as of the date it was signed. Move Eden Housing (MEH) challenged the adoption of Resolution No. 2024-109, and the Trial Court held the resolution was premature since it was substantially similar to the prior resolution No. 2022-085. The City and Eden Housing have appealed the Trial Court's decision and are awaiting a decision by the Appellate Court, which is scheduled for oral argument on August 21, 2025.

STAFF ANALYSIS

California Elections Code Section 9241 provides a city is prohibited from adopting the same legislative act that was repealed in response to a qualified referendum for a period of one year from the date of its repeal. If applicable, that one-year period has expired as of June 24, 2025, thereby allowing the City Council to retake the action in Resolution No. 2024-109 to ratify, reaffirm, and readopt the Amended and Restated Disposition Development and Loan Agreement, except for the language for the construction of and improvements to Veterans Park. The Appellate Court will determine whether the Trial Court correctly suspended Resolution 2024-109, which only approved terms and conditions for the housing project and excluded the sole legislative act that was Veterans Park. Should the City Council choose to ratify, reaffirm, and readopt the Amended and Restated Disposition, Development and Loan Agreement, then Eden Housing, Inc. may proceed to obtain final construction financing to implement the workforce affordable housing project pursuant to the terms of the agreement, while excluding any work related to Veterans Park.

The contents of the Amended and Restated Disposition, Development and Loan Agreement remain unchanged from when it was executed on May 24, 2022, with the exception that all provisions related to Veterans Park remain excluded from the recommended action in accordance with the Appellate Court's decision issued on March 6, 2024.

Ratification, reaffirmation, and readoption of the Amended and Restated Disposition, Development and Loan Agreement at this time will allow the City and Eden Housing, Inc. to move forward with implementation of the Eden Housing project pursuant to the terms of the agreement, while excluding any work related to Veterans Park. Veterans Park is in the recently adopted Capital Improvement Plan and remains a key component of the approved Downtown Plan and will be constructed in the future separately from the workforce housing project. The final design of Veterans Park has not yet been approved.

ENVIRONMENTAL DETERMINATION

The ratification, reaffirmation and readoption of the non-legislative elements of the Amended and Restated Disposition, Development and Loan Agreement is within the scope of the Downtown Specific Plan EIR, dated February 9, 2004 (SCH No.: 2003032038), the Specific Plan Subsequent EIR, dated March 30, 2009 (SCH No.: 2008092085), and the Specific Plan Subsequent EIR Addenda adopted by City Council on September 10, 2018 by Resolution 2018-153, May 13, 2019 by Resolution 2019-064, and October 26, 2020 by Resolution 2020-178. No new or more severe significant impacts were identified for the Project that were not identified in the 2004 Final EIR and 2009 Subsequent EIR, and no new mitigation measures would be required for the downtown plan. For all environmental topics addressed in the addendums, there were no substantial changes in environmental circumstances that would result in new or more severe significant environmental effects than were identified and evaluated in the 2004 Final EIR and 2009 Subsequent EIR.

The Amended and Restated Disposition, Development and Loan Agreement is also exempt from the provisions of CEQA pursuant to CEQA Guidelines Sections 15182 (c), 15332, 15304 (a)(b) and 15308 and none of the exceptions to the categorical exemptions in CEQA Guidelines Section 15300.2 apply, as described in the Eden Housing Project resolution, dated May 26, 2021 (Resolution 2021-071).

FISCAL AND ADMINISTRATIVE IMPACTS

There are no new fiscal or administrative impacts associated with ratifying, reaffirming, and readopting the Amended and Restated Disposition, Development and Loan Agreement. The agreement remains in effect as executed, and this action simply affirms the City's ability to proceed following the expiration of the one-year limitation period under California Elections Code Section 9241. No new expenditures or administrative obligations are created as a result of this action. However, the staff time required to prepare this report and bring the item forward for City Council consideration is supported by the City's General Fund as part of ongoing administrative operations.

COMMUNITY PILLAR

4: Inclusive and Inviting Spaces and Places

GOAL

3: Continue to Implement the Downtown Specific Plan

ATTACHMENTS

1. Location Map
2. City Council Staff Report, June 24, 2024
3. Resolution
4. Exhibit A - Resolution No. 2022-085
5. Exhibit B - Veterans Park Language

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Approved by:



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Fiscal Review by:



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