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OFFICE OF THE CITY CLERK
OAKLAND

2020 JAN -9 PM 3:48

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Betsy Lake
Deputy City Administrator

SUBJECT: Ratification of Prior City Actions and
Declaration of Surplus Land:
Coliseum Complex

DATE: December 30, 2019

City Administrator Approval

Date:

1/9/20

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Ratifying Prior Actions Of The City Administrator Regarding The Disposition Of The City's Undivided Fifty Percent (50%) Interest In The Property Identified As Assessor Parcel Numbers 041-3901-008 & 041-3901-009 And Commonly Known As The Oakland Alameda County Coliseum Complex And Declaring Such Property "Surplus Land" Pursuant To Government Code Section 54221(b)(1).

EXECUTIVE SUMMARY

The Oakland-Alameda County Coliseum Complex (the Complex) consists of approximately 112 acres of real property in the City of Oakland and includes the Oakland-Alameda County Coliseum, the Oakland Arena, and adjacent parking lots. The Complex is jointly owned by the City and County of Alameda (County) as tenants-in-common, and operated by the Oakland Alameda County Coliseum Authority (JPA), a joint powers agency established by the City and County to finance improvements to the Complex and to manage the Complex on behalf of the City and the County. There is no written tenancy-in-common agreement between the City and the County governing their respective rights as co-owners of the Complex.

Due to the completed or upcoming departure of the three professional sports teams that have been or were playing at the Oakland-Alameda County Coliseum or Oakland Arena, the Complex is expected to be vacant in 2024. In light of the relatively near term vacancy of the Complex and maturation of two separate series of bonds, and based on prior direction of the City Council, on December 3, 2019 the City Administration issued a "Notice of Availability and Offer to Convey *Surplus Property* Pursuant to Government Code Section 54220 et seq." for the Complex, a copy of which is attached hereto as **Attachment A** (the Notice). As required by Government Code Section 54220 et seq. (commonly referred to as the "Surplus Lands Act"), the Notice included a notice of availability and the City's intent to convey its undivided 50 percent interest in the Complex by sale or lease. The Notice was provided concurrently, in writing via certified mail, to all eligible entities, as more specifically set forth in Government Code Section 54222. As set

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forth in the Notice, offers to purchase or lease the site are due February 1, 2020. The amended Surplus Land Act requires the City Council to declare the City's interest in the Complex as "surplus land" prior to commencement of disposition actions. Accordingly, staff recommends that the City Council retroactively ratify the City Administration's December 3, 2019 Notice and declare the Complex "surplus land" pursuant to Government Code Section 54221(b)(1).

BACKGROUND / LEGISLATIVE HISTORY

In recent years, all or portions of the Complex have been burdened by license agreements with the Oakland Athletics (the Athletics), Oakland Raiders (Raiders), Golden State Warriors, (Warriors) and Outfront Media; a facilities management agreement among the JPA, the City, the County and AEG Facilities; and two series of bonds (the Bonds) issued pursuant to separate bond indentures.

In 2012, the Golden State Warriors announced their intent to move the team to a new arena in San Francisco, and in 2019, the Warriors vacated the Oakland Arena and commenced play at their new Mission Bay facility, the Chase Center. In 2017, the Oakland Raiders announced their intent to move the team to a new stadium in Las Vegas. That facility is currently under construction and the Raiders are expected to commence their 2020 season at Allegiant Stadium in Paradise, Nevada. In 2018, the Oakland Athletics announced their intent to pursue development of a new ballpark at Howard Terminal. City staff expect that the Athletics will continue to play at the Coliseum through expiration of their current license in 2024, or until a new facility is available for them at Howard Terminal or elsewhere in the City of Oakland. Following departure of the Raiders and Athletics, the Complex is anticipated to be vacant.

In 2015, the City adopted the Coliseum Area Specific Plan (CASP) via Resolution No. 85491 C.M.S., which, together with the associated Planning Code and General Plan, governs land use and development of the Complex and surrounding area. The CASP and related land use approvals were analyzed in an Environmental Impact Report, certified by the City in 2015, that considered the environmental impacts and mitigation measures associated with various development scenarios described in the CASP, including "a no sports-venue alternative".

As referenced above, on December 3, 2019 the City Administration issued a "Notice of Availability and Offer to Convey *Surplus Property* Pursuant to Government Code Section 54220 et seq." for the Complex. As required by the Surplus Lands Act, the Notice included a notice of availability and the City's intent to convey its undivided 50 percent interest in the Complex by sale or lease. The Notice was provided concurrently, in writing via certified mail, to all eligible entities, as more specifically set forth in Government Code Section 54222. As set forth in the Notice, offers to purchase or lease the site are due February 1, 2020.

According to the Office of Senate Floor Analyses¹, under existing law, the Surplus Lands Act spells out the steps public agencies must follow when they want to dispose of land they no longer need. The statute's implicit public policy is that real property should remain in public

¹ See Assembly Bill 1486, Third Reading, Senate Rules Committee, Office of Senate Floor Analyses, September 6, 2019; https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1486.

ownership if it's still useful for certain favored purposes. Before state and local officials can dispose of surplus land, they must send a written offer to sell or lease surplus land to various public agencies and nonprofit groups who want to sell or lease the property for:

- Low- and moderate-income housing
- Parks and recreation
- School facilities or open space
- Enterprise zones
- Infill opportunity zones or transit village plans

If another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must notify the disposing agency in writing of its interest in purchasing or leasing within 60 days after the agency's notice was sent. The two entities have an additional 90 days to negotiate in good faith a mutually satisfactory sales price or lease terms. If they can't agree, the agency that owns the surplus land can sell the land on the private market. The Surplus Lands Act says that nothing in its provisions prevents a local agency from disposing of the land at or below fair market value, to the extent not in conflict with other law. The Surplus Lands Act's provisions do not apply to "exempt surplus land," which means either:

- Land that a county transfers at less than fair market value for affordable housing development; or
- Small parcels that are sold to contiguous property owners.

Counties have the option of developing a central inventory of all the surplus land in that county. Under a separate provision of law, local governments must annually make an inventory of all land that it holds to determine what land, including air rights, if any, is in excess of its foreseeable needs and describe the excess parcels. The local government must make this list available for free to entities that request it.

In 2014, the Legislature updated the Surplus Land Act to enhance the affordable housing requirements under the law (Assembly Bill 2135, Ting, Chapter 677, Statutes of 2014). Specifically, if a local agency sells the land for housing, a few inclusionary requirements apply. First, if the land is to be used for low- or moderate-income housing, at least 25 percent of the units must be offered at an affordable housing cost or rent. If the local agency does not come to terms with a housing sponsor or other local agency, and a housing project with 10 or more units is subsequently built on the land, at least 15 percent of the units must be affordable. The 2014 changes to the Act were intended to expand the supply of land available for affordable housing.

In 2019, the Legislature again updated the Surplus Lands Act to further clarify and strengthen provisions in the Surplus Land Act that promote the use of public land for affordable housing (Assembly Bill 1486, Ting, effective January 1, 2020). Amongst other things, Assembly Bill (AB) 1486:

- Clarifies the public agencies to which the Surplus Lands Act applies
- Revises the definition of "surplus land"
- Expands the list of exemptions from the Surplus Lands Act, and "grandfathers" certain transactions already in process

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- Requires the state Department of Housing and Community Development to maintain a list of qualified, interested "housing sponsors"
- Prohibits a local agency from commencing negotiations, as defined, prior to providing notification of the availability of surplus land
- Prohibits the disposing agency from disallowing residential use of the surplus property, reducing the allowable number of residential units that may be constructed thereon below what would otherwise be allowed by zoning or the local General Plan, or imposing design standards that would substantially adversely affect the viability or affordability of housing development thereon
- Requires a local agency to give preference in exclusive negotiations to those affordable housing entities that propose the deepest level of affordability
- Imposes penalties on local agencies that dispose of land in violation of the surplus lands act

Importantly, AB 1486 now requires a local agency to declare property as "surplus land" or "exempt surplus land" before taking any actions to dispose of such property. The declaration must be made by the legislative body of the local agency and should be supported by written findings. The amended law further defines surplus land as "land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use."

ANALYSIS AND POLICY ALTERNATIVES

Actions to dispose of the City's fifty percent (50%) undivided interest in the Complex were taken by the City Administrator prior to the effective date of AB 1486; therefore, the new requirements would not apply. However, as the 60-day Notice period will extend into 2020, staff recommends that the City Council take this action to retroactively ratify the City Administrator's actions, consistent with AB 1486. Specifically, as the City's 50 percent undivided interest in the Complex is no longer necessary for the City's use, staff recommends that the City Council, at its meeting of January 21, 2020, which will be the City Council's first regular public meeting of 2020, declare the Complex "surplus land" pursuant to Government Code Section 54221(b)(1). Should the City Council, in its full and independent discretion, not take the recommended action, the City Administrator can, at the direction of City Council, rescind the Notice.

The following two policy options are before the City Council for consideration:

Alternative 1: Declare the Complex "surplus land". Declaring the Complex "surplus property" in a regular public meeting ensures that any potential future disposition of the City's interest in the Complex can be made in compliance with the Surplus Lands Act, as amended.

Alternative 2: Do not declare the Complex "surplus land". Because AB 1486 becomes effective January 1, 2020, there is some ambiguity as to the applicability of the amendment to this Notice for the Complex. If the City Council does not declare the Complex "surplus land", it is unclear whether any potential future disposition of the City's interest in the Complex pursuant to this Notice would be made in compliance with the Surplus Lands Act, as amended. As noted above,

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should the City Council, in its full and independent discretion, not take the recommended action, the City Administrator can, at the direction of City Council, rescind the Notice.

FISCAL IMPACT

There is no fiscal impact or cost associated with the recommended action. Declaring the Complex "surplus land" and ratifying the City Administration's issuance of the Notice is a necessary step in the process of disposing, in compliance with the Surplus Lands Act, as amended, of the City's 50 percent undivided interest in the Complex. These actions do not limit the City's ability to dispose of the Complex by sale or by lease, nor do they dictate that the City dispose of its interest by a date certain, to a specific party, or on any particular terms.

The Surplus Lands Act, as amended, explicitly states, "This article *shall not be interpreted to limit the power of any local agency to sell or lease surplus land at fair market value or at less than fair market value*, and any sale or lease at or less than fair market value consistent with this article shall not be construed as inconsistent with an agency's purpose." (Government Code Section 54226; emphasis added).

If the City does not agree to price and terms for disposition of the Complex with a recipient of the Notice following a good faith negotiation period of 90 days (as more fully described in Government Code Section 54223), and 10 or more residential units are developed on the Complex, then not less than 15 percent of the total number of residential units developed must be sold or rented at affordable housing cost. This is consistent with the City Council's previous policy guidance for redevelopment of the Complex, as set forth in LU Policy 3-52 of the City's adopted CASP, which indicates that "at least 15 percent of all new units built in the Plan Area [should] be affordable to extremely low-, very low-, low-, and moderate income households."

Finally, failure to comply with the Surplus Lands Act, as amended, would not invalidate any potential future transfer of the City's interest in the Complex (Government Code Section 54230.6); however, beginning January 1, 2021, any transfer made in violation of the Surplus Lands Act, as amended, could incur a penalty equal to 30 percent of the proceeds thereof, to be deposited into a local housing trust fund for construction of affordable housing (Government Code Section 54230.5).

PUBLIC OUTREACH / INTEREST

In addition to issuance of the Notice in compliance with the Surplus Lands Act, as amended, public outreach includes the public noticing of this report and proposed City Council action pursuant to the Brown Act and City Sunshine Ordinance.

COORDINATION

The Notice and this Agenda Report and proposed Resolution have been coordinated between and amongst the following departments of the City: City Administrator's Office, Economic & Workforce Development Department, and City Attorney's Office.

SUSTAINABLE OPPORTUNITIES

Economic: Declaring the Complex "surplus land" and ratifying the City Administration's issuance of the Notice is a necessary step in the process of disposing, in compliance with the Surplus Lands Act, as amended, of the City's 50 percent undivided interest in the Complex. These actions do not limit the City's ability to dispose of the Complex by sale or by lease, at or below fair market value, nor do they dictate that the City dispose of its interest by a date certain or to a specific party. However, they are anticipated to facilitate the eventual redevelopment of the Complex consistent with the CASP, including the construction of much-needed new housing at all levels of affordability, with *at least* 15 percent of all new units to be offered at affordable rents and/or sales prices.

Environmental: Declaring the Complex "surplus land" and ratifying the City Administration's issuance of the Notice is intended to facilitate the eventual redevelopment of the Complex. The environmental impacts of that redevelopment were studied in the Final Environmental Impact Report for the CASP, adopted by the City Council on March 31, 2015 via Resolution No. 85491 C.M.S.

Race and Equity: As noted above, pursuant to the CASP and the Surplus Lands Act, as amended, redevelopment of the Complex is anticipated to include construction of much-needed new housing at all levels of affordability, with *at least* 15 percent of all new units to be offered at affordable rents and/or sales prices.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Nothing in the Notice or Resolution declaring the Complex "surplus land" should be interpreted as an approval or a pre-commitment to approve, now or in the future, of the disposition of the City's 50 percent undivided interest in the Complex to any particular party, on any particular terms, or for any particular purposes. Any proposed disposition of the Complex, whether made pursuant to the Notice or otherwise, will require further discretionary actions of the City Council, and the City retains full discretion, following conclusion of the response and negotiation periods set forth in the Notice and the Surplus Lands Act, as amended, to proceed with disposition of its interest in the Coliseum in compliance with CEQA. As such, this action will not result in a direct or indirect physical change in the environment and does not in-and-of-itself constitute a "project" pursuant to CEQA Guidelines Section 15378.

Sabrina B. Landreth, City Administrator

Subject: Ratification of Prior City Actions and Declaration of Surplus Land: Coliseum Complex

Date: December 30, 2019

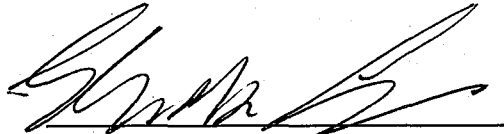
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ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends that the City Council Adopt a Resolution Ratifying Prior Actions of the City Administrator Regarding the Disposition of the City's Undivided 50% Interest in the Property Identified as Assessor Parcel Numbers 041-3901-008 & 041-3901-009 and Commonly Known as the Oakland Alameda County Coliseum Complex and Declaring Such Property "Surplus Land" Pursuant to Government Code Section 54221(b)(1).

For questions regarding this report, please contact Molly Maybrun, Project Manager III, at (510) 238-4941.

Respectfully submitted,



BETSY LAKE
Deputy City Administrator

Prepared by:
Molly Maybrun, Project Manager III
Real Estate and Major Projects

Attachments (1):

A – Notice of Availability and Offer to Convey *Surplus Property* Pursuant to Government Code Section 54220 et seq.

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January 21, 2020

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

OFFICE OF THE CITY ADMINISTRATOR

(510) 238-3301

FAX: (510) 238-2223

TDD: (510) 238-3254

TO: Eligible Entities
FROM: Elizabeth Lake, Deputy City Administrator, Real Estate and Major Projects
DATE: December 2, 2019
RE: NOTICE OF AVAILABILITY AND OFFER TO CONVEY SURPLUS PROPERTY PURSUANT TO GOVERNMENT CODE SECTION 54220 et seq.

To Whom It May Concern:

Pursuant to Government Code Section 54220 et seq., as it may be amended, the City of Oakland ("City") is hereby giving notice of availability and its intent to convey its undivided 50% interest in the property identified as Assessor Parcel Numbers ("APN's") 041-3901-008 & 041-3901-009 and commonly known as the Oakland Alameda County Coliseum Complex (the "Site") by sale or lease. Pursuant to Government Code Section 54222, the City is hereby providing this written offer to your agency/organization to sell or lease said property for certain purposes or uses consistent with your agency's/organization's mission. Please be advised that the City owns the Site with the County of Alameda, as tenants in common, and the City is providing this offer of only its undivided 50% interest. We also note that the City is concurrently providing this written offer to all eligible entities designated in Government Code Section 54222.

If your agency/organization desires to purchase or lease the Site, you have up to **60 days** from the date of this offer to notify the City of your intent. Priority shall be given to the development designated in Section 54222(a) to any offers received. Your response should include a description of your intended development proposal. If you submit a response, the City will enter into good faith negotiations with your agency/organization to discuss your proposed development proposal or use and to determine a mutually satisfactory sales price or lease terms.

Please address the notice of intent to purchase or lease to:

Larry Gallegos
Coliseum Area Manager
City of Oakland
250 Frank Ogawa Plaza, 5th Floor
Oakland, CA 94612

The City will carefully consider any reasonable offer or proposal, but it has previously expressed its intent that the property be developed into a project that maximizes the regional development opportunity of this Site. Please note all the relevant information regarding the Coliseum Area Specific Plan and zoning regulations pertaining to this Site can be located on the City's website at:

<https://www.oaklandca.gov/topics/coliseum-area-specific-plan>

ABOUT THE PROPERTY

The property is zoned D-CO-2 Coliseum Area Commercial District Zone-2 (Coliseum District) and described in the Coliseum Area Specific Plan as follows: *"The D-CO-2 Zone is intended to create, maintain and enhance areas that allow a broad mixture of residential, retail, commercial, office, and light industrial uses, and serve as region-drawing centers of sports, entertainment, and business activities."*

The Site includes two parcels with the first consisting of approximately 104 acres which includes the Oakland-Alameda County Coliseum and corresponding north and south Coliseum parking lots; and the second parcel contains approximately 8.5 acres and includes the Oakland-Alameda County Arena. The site is generally bounded by the Damon Slough Channel to the north and east, Coliseum Way to the west, and South Elmhurst Creek to the south. A parcel map is attached.

If you need additional information, please contact Larry Gallegos at (510) 238-6174 or via email at lgallegos@oaklandca.gov

Sincerely,



Elizabeth Lake

Deputy City Administrator

Attachment: Parcel Map

Parcel Map

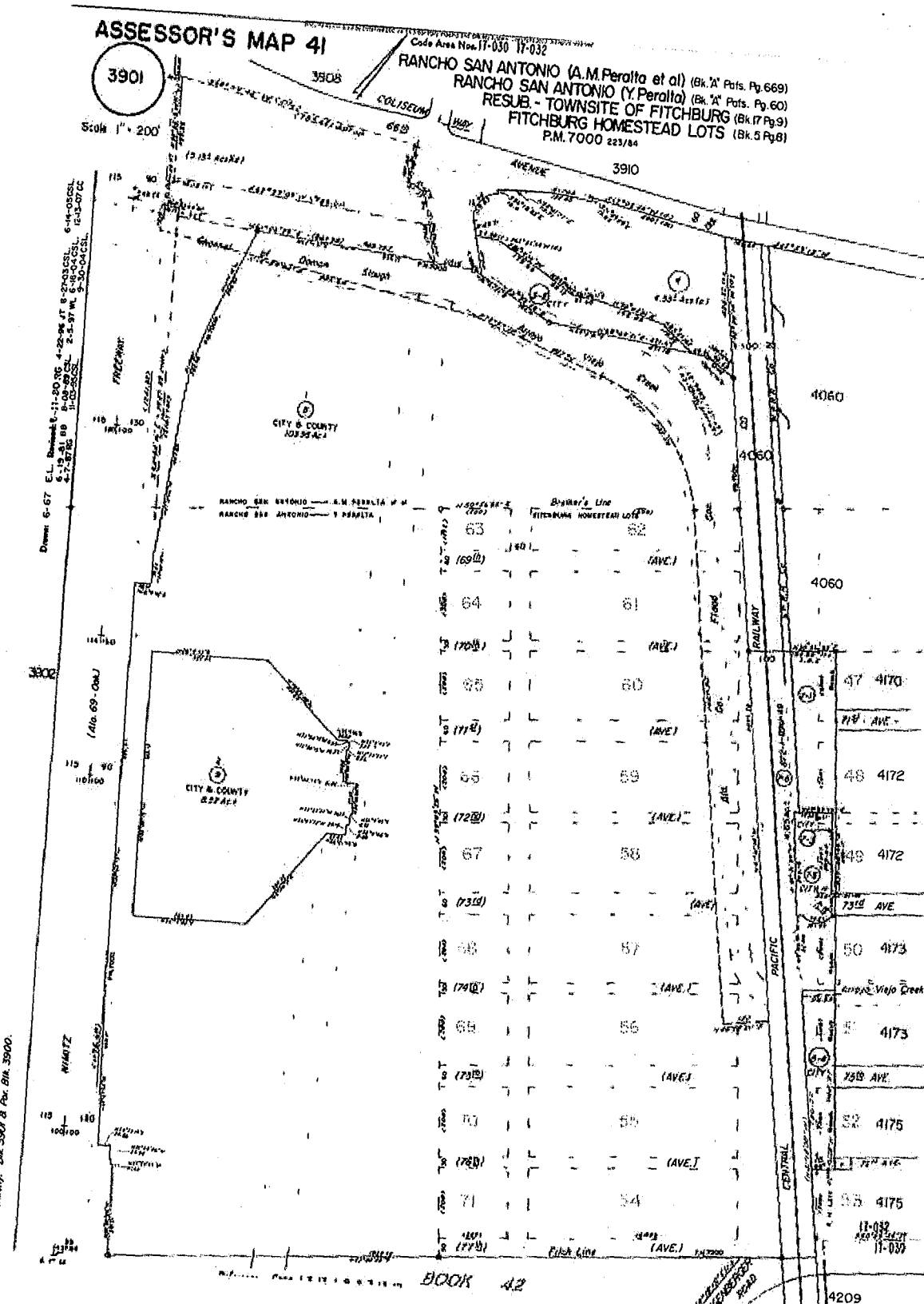
ASSESSOR'S MAP 41

Code Area No. 17-030 17-032

RANCHO SAN ANTONIO (A.M. Peralta et al) (Bk. X^o Pafs. Pg. 669)
 RANCHO SAN ANTONIO (Y. Peralta) (Bk. X^o Pafs. Pg. 60)
 RESUB. - TOWNSITE OF FITCHBURG (Bk. 17 Pg. 9)
 FITCHBURG HOMESTEAD LOTS (Bk. 5 Pg. 8)
 P.M. 7000 223/84

3901

Scale 1" = 200'



Drawn: 6-67 C.L. Deane 11-20-82 4-22-84 J.T. 8-24-85 C.S.L. 6-14-85 C.S.L. 10-20-85 C.S.L. 1-10-86 C.S.L. 4-7-87 B.B. 11-23-87 C.S.L. 2-5-87 W.L. 5-30-87 C.S.L. 8-13-87 C.S.L.

Permit: Bk. 3901 & Par. 814 3900.

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Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION RATIFYING PRIOR ACTIONS OF THE CITY ADMINISTRATOR REGARDING THE DISPOSITION OF THE CITY'S UNDIVIDED 50% INTEREST IN THE PROPERTY IDENTIFIED AS ASSESSOR PARCEL NUMBERS 041-3901-008 & 041-3901-009 AND COMMONLY KNOWN AS THE OAKLAND ALAMEDA COUNTY COLISEUM COMPLEX AND DECLARING SUCH PROPERTY "SURPLUS LAND" PURSUANT TO GOVERNMENT CODE SECTION 54221(b)(1)

WHEREAS, the City of Oakland ("City") owns a 50% undivided interest in the property identified as Assessor's Parcel Numbers 041-3901-008 & 041-3901-009 and commonly known as the Oakland Alameda County Coliseum Complex ("Complex"); and

WHEREAS, in recent years, all or portions of the Complex, which includes the Oakland Arena, an indoor arena seating up to 19,000 patrons, and the RingCentral Coliseum, an outdoor stadium seating up to 63,000 patrons, together with approximately 10,000 parking spaces, has been burdened by license agreements with the Oakland Athletics ("Athletics"), Oakland Raiders ("Raiders"), and the Golden State Warriors ("Warriors"); and

WHEREAS, in 2019, the Warriors vacated the Oakland Arena and commenced play at Chase Center, their new facility in San Francisco's Mission Bay; and

WHEREAS, in 2017, the Oakland Raiders announced their intent to vacate RingCentral Coliseum and move the team to a new stadium currently under construction in Paradise, Nevada, where the team is expected to commence their 2020 season; and

WHEREAS, in 2018, the Oakland Athletics announced their intent to vacate RingCentral Coliseum and pursue development of a new ballpark at Howard Terminal; and

WHEREAS, following departure of the Warriors, Raiders and Athletics, the Complex is anticipated to be vacant; and

WHEREAS, the Surplus Land Act, codified as California Government Code Section 54220 et seq. ("SLA"), governs the disposition of surplus public land; and

WHEREAS, effective January 1, 2020, Assembly Bill 1486 amends the SLA to require local agencies to formally declare agency-owned properties as surplus land prior to taking actions to dispose of such properties and to issue Notices of Availability instead of Offer once disposition actions are commenced; and

WHEREAS, prior to the effective date of AB 1486, on December 3, 2019, the City issued a "Notice of Availability and Offer to Convey Surplus Property Pursuant to Government Code Section 54220 et seq." for the Complex; and

WHEREAS, the 60-day response period set forth in the Notice will extend into 2020; and

WHEREAS, Staff recommends that the City Council ratify the City Administrator's prior action of December 3, 2019, as a declaration of the City's interest in the Complex as "surplus land" to fulfill requirements under the amended SLA; now, therefore, be it

RESOLVED: That, to ensure that any potential future disposition of the City's interest in the Complex can be made in compliance with the Surplus Lands Act, as amended, the City Council, at its first regular public meeting of 2020, hereby ratifies the prior actions of the City Administrator regarding the disposition of the City's undivided 50% interest in the Complex; and be it

FURTHER RESOLVED: The City Council declares that the City no longer needs the City's interest in the Complex for public purposes and declares such property interest as "surplus land" pursuant to Government Code Section 54221(b)(1); and be it

FURTHER RESOLVED: That the City Council finds and determines, after independent review and consideration, that this action results in no binding commitment by the City to authorize or advance the Proposed Project; will not result in a direct or indirect physical change in the environment; and does not constitute an "approval" of a "project" pursuant to CEQA Guidelines Sections 15004 and 15378; and be it

FURTHER RESOLVED: That the City Council, hereby requires the City Administrator or his or her designee to return to the City Council for further direction, after entering into "good faith" negotiations for a period of up to ninety days with any party that submits a written offer to purchase or lease the Complex pursuant to the SLA requirements.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California