



CITY OF OAKLAND

AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Alexa Jeffress
Director, EWD

SUBJECT: Surplus Land Declaration for 16 City-
Owned Sites

DATE: June 29, 2020

City Administrator Approval

Date:

July 15, 2020

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Declaring Sixteen Properties, Including, (1) Thirteen Properties Designated In The Long-Range Management Plan For Disposition Or Future Development; And (2) Three City-Owned Properties Located At 98th Avenue And Stearns Avenue (APN 48-5617-9-1, 48-5617-10-4), 1449 Miller Avenue (APN 20-153-6), And 6226 Moraga Avenue (APN 048F-7361-11, 048F-7361-12), As “Surplus Land” Pursuant To Government Code Section 54220(B)(1).

EXECUTIVE SUMMARY

The City owns 16 sites that are no longer necessary for the City’s use and therefore eligible for development (see **Attachment A** for a list of the Surplus Properties). Effective January 1, 2020, Assembly Bill (AB) No.1486 amended the State Surplus Land Act (SLA) to require a local agency to formally declare publicly owned property no longer used for the agency’s expressed purpose as surplus land before beginning the disposition process. Unless the land is exempt from the SLA, the declaration must be made by the legislative body of the local agency and should be supported by written findings. Surplus land must follow a statutory noticing and negotiation period with certain designated entities, including eligible housing sponsors defined by the California Department of Housing and Community Development (HCD).

On December 14, 2018, the City Council adopted Resolution No. 87483 C.M.S. (the Public Lands Resolution or PLR), setting forth a new policy framework for the disposition of City-owned real estate. According to the PLR, City-owned land should be prioritized for use as affordable housing; the disposition of such sites should follow a transparent and accountable public process that is inclusive of Oakland’s many diverse communities; and projects should adhere to certain green building standards and local hire requirements. The PLR also includes a requirement for a Project Labor Agreement (PLA) on all projects, however, this PLA provision cannot become effective until the City completes its public engagement process and equity analysis regarding a City-wide PLA and Community Workforce Agreement (CWA), which began in July of 2018 and is still ongoing.

City Council Meeting
July 21, 2020

The COVID-19 global pandemic and resulting health and economic crisis has had a devastating impact on Oakland residents, and has underscored the urgent need to develop affordable housing units and move Oakland's unsheltered population into permanent, safe housing as quickly as possible. Rather than further delay the release of any Notices of Availability (NOA) for these sites, staff recommends that City Council declare the 16 sites as "surplus land," which will allow staff to begin the process for disposition and development of these properties in several phases, prioritizing the development of affordable housing in compliance with the SLA and City Council direction.

BACKGROUND / LEGISLATIVE HISTORY

The SLA and the Surplus Land Declaration

Effective January 1, 2020, Assembly Bill (AB) No. 1486 amended the SLA by prohibiting local agencies from commencing negotiations over the sale or lease of surplus property prior to sending notices about available, surplus local public land to designated entities (Eligible Entities), including:

- California Department of Housing and Community Development (HCD)
- Any local public entity within the jurisdiction where the surplus local land is located
- Developers who have notified HCD of their interest in developing affordable housing on surplus local land.

Importantly, AB 1486 now requires a local agency to declare property as "surplus land" before taking any actions to dispose of such property, including issuance of a NOA or request for proposals (RFP). The declaration must be made by the legislative body of the local agency.

Following the declaration of surplus, the City must provide a NOA to the Eligible Entities for specified uses, including affordable housing, parks and recreation, and schools. An Eligible Entity desiring to purchase or lease the surplus land for any of the purposes described above must notify the City in writing of its intent to purchase or lease the land within 60 days after receipt of the City's notification of intent to dispose of the land.

If the City receives notice of interest from any Eligible Entities, the SLA mandates a 90-day negotiation period with any designated entities that submit timely offers. If no notice of interest is received or negotiations do not result in a disposition, the City may proceed with disposing of the land. The SLA does not require the City to dispose of surplus land at less than fair market value. However, the SLA requires that, at a minimum, any subsequent development of 10 or more residential units on the site must designate at least 15 percent of units as affordable.

The Long-Range Property Management Plan

Thirteen of the seventeen Surplus Properties were designated for future development on the Oakland Redevelopment Successor Agency's Long-Range Property Management Plan (LRPMP) that was approved by the Oakland Oversight Board and the California Department of Finance in May 2014. The LRPMP provides that these properties may be sold or ground leased either for their (a) fair market value, or (b) fair reuse value taking into consideration the proposed use of the property and the conditions, covenants and associated development costs. Pursuant to a related Master Agreement for Taxing Entity Compensation, any net unrestricted proceeds the City receives from the sale of the properties will be distributed to the taxing entities on a pro rata basis.

ANALYSIS / POLICY ALTERNATIVES

In compliance with State law, staff recommends that City Council declare the Surplus Properties as "surplus land" to begin the process for disposition. The anticipated process is outlined below.

Notices of Availability and Noticing Period

Per the SLA, after City Council issues the surplus declaration, staff will issue NOAs for the first batch of properties to the Eligible Entities, beginning a minimum 60-day noticing period. Staff will release NOAs for the first batch of 4 properties in 2020, as indicated in **Attachment A**, to accommodate staff capacity and affordable housing funding availability. Other batches of 4-5 properties will be released in subsequent years, with the goal of releasing 1-2 batches per year.

During the 60-day noticing period, the SLA restricts City discretion in negotiating with potential buyers, prioritizing NOA responses, and limiting project design features.

State law requires the City to first respond exclusively to Eligible Entities and to give priority to proposals that provide at least 25 percent of a project's housing units affordable to lower-income households (at or below 80 percent of area median income). If multiple proposals provide at least 25 percent affordable units, State law requires prioritizing the project with the greater number of affordable units. If multiple proposals contain the same number of affordable units, staff are required to prioritize projects that provide the deepest average level of affordability for its affordable units. The City is also prevented from negotiating terms that would prevent residential use (even if not permitted by the existing zoning), reduce density below what is allowed by zoning, or impose design requirements that would have a substantial adverse effect on viability for affordable housing.

Community Outreach to Inform Negotiations

Staff is committed to developing criteria for negotiating with Eligible Entities that incorporates the requirements of the SLA as well as input from impacted members of Oakland's community. Prior to beginning negotiation with Eligible Entities, staff will hold public meetings with residents near project sites, and with community organizations and stakeholders to inform the negotiations and project selection.

Staff have engaged with the Department of Race and Equity for guidance on effective outreach strategies and with the City's Department of Housing and Community Development to review criteria for affordable housing development. Staff are utilizing the City's "Inclusive Public Engagement Planning Guide" to identify the targets and level of public engagement.

90-Day Negotiation with Eligible Entities

If staff receives a notice of interest from one or more Eligible Entity, staff will begin negotiations for a period of no less than 90 days. These negotiations will be informed by community input, as well as the prioritization described above and the requirements of the LRPMP.

Project Selection and Return to Council

If negotiations lead to development of a potential project, staff will return to City Council to present the recommended project proposal for public comment and Council authorization for an Exclusive Negotiation Agreement (ENA).

If no notices of interest are received or if negotiations conclude with no recommended project proposals, staff will return to City Council to seek further direction on the disposition of the site, which could include proceeding with disposition in accordance with the Oakland Municipal Code.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Nothing in this action declaring the Properties "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 interest in the Properties to any particular party, on any particular terms, or for any particular purposes. Any proposed disposition of the Property, whether made pursuant to the NOA 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 of Availability and the SLA to proceed with disposition of its interest in the Property 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.

FISCAL IMPACT

There is no fiscal impact related to the declaration of the Surplus Properties as surplus land or to the release of NOAs. Fiscal impacts of received and staff-recommended proposals will be assessed in future reports brought before the City Council.

PUBLIC OUTREACH / INTEREST

NOAs will be sent to eligible public entities and developers included within the State HCD's list of affordable housing developers.

Prior to negotiation and selection of a project, staff will convene meetings with affordable housing non-profits, community organizations, communities living near the project area, and other relevant stakeholders. The purpose of these meetings will be to collect input on community priorities, goals, and concerns for potential development on Oakland's public lands.

COORDINATION

Economic and Workforce Development staff have coordinated with the Office of the City Attorney to understand the new legal requirements of the SLA.

Staff have also coordinated with the Department of Housing and Community Development to review affordable housing selection criteria and available sites, and to align site batching and timing with staff resources and affordable housing funding availability.

In addition, Department of Race and Equity staff provided consultation to ensure that any public process will reflect the voices and concerns of Oakland's community, especially segments likely to be most impacted by the development of affordable housing and those historically excluded from policymaking decisions.

SUSTAINABLE OPPORTUNITIES

Economic: There is no economic relevance to the recommended actions within this report. Economic impacts of received and staff-recommended proposals will be assessed in future reports brought before Council.

Environmental: There is no environmental relevance to the recommended actions within this report. Environmental impacts of received and staff-recommended proposals will be assessed in future reports brought before Council.

Race & Equity: This report recommends statutory compliance with State law that is required for any disposition of public land for development. SLA compliance is required for eventual development of affordable housing on City-owned sites. Therefore, recommended actions will provide positive social equity impacts for those in need of affordable housing.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Declaring Sixteen Properties, Including, (1) Thirteen Properties Designated In The Long-Range Management Plan For Disposition Or Future Development; And (2) Three City-Owned Properties Located At 98th Avenue And Stearns Avenue (APN 48-5617-9-1, 48-5617-10-4), 1449 Miller Avenue (APN 20-153-6), And 6226 Moraga Avenue (APN 048F-7361-11, 048F-7361-12), As "Surplus Land" Pursuant To Government Code Section 54220(B)(1).

For questions regarding this report, please contact Alexa Jeffress, Director, Economic & Workforce Development, at (510) 238-3653.

Respectfully submitted,



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Attachment (1):
A: List of Surplus Properties