

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD DECLARING SPECIFIED CITY-OWNED PROPERTIES ASSOCIATED WITH THE FORMER 238 BYPASS PROJECT EXEMPT SURPLUS LAND AND DECLARING PARCEL GROUP 4 AS SURPLUS LAND PURSUANT TO GOVERNMENT CODE SECTION 54221

WHEREAS, the City of Hayward (the "City") is the owner of those parcels of real property more particularly described in the attached Exhibit A, located in the City of Hayward (the "City Properties"); and

WHEREAS, the City previously declared the City Properties exempt surplus land on December 14, 2021 and promptly transmitted a copy of that Resolution to the California Department of Housing and Community Development ("HCD") on December 16, 2021; and

WHEREAS, following transmittal, HCD and the City commenced discussions whereby additional exemptions were identified that were applicable to the City Properties; and

WHEREAS, under Government Code §54221(f)(1)(A) "exempt surplus land" is defined to include surplus land that is transferred pursuant to Government Code §37364; and

WHEREAS, under Government Code §37364, whenever a City determines that its property can be used for the provision of affordable housing to families of low or moderate income as defined in Health & Safety Code § 50093, and that the use is in the City's best interest, the City may sell or otherwise convey the property under whatever terms and conditions it deems appropriate as long as at least 80% of the area of the property being disposed is used for the development of housing, and that at least 40% of the total housing units are restricted to low and very low incomes as specified under §37364(c-d); and

WHEREAS, at least 80% of the developable area of geographically clustered Parcel Groups 8 (excluding the Open Space Subparcel as shown separately in Exhibit A and addressed separately below) and 9 will be used for the generation of housing, and at least 40% of the residential units will be affordable as specified under §37364(c-d); and

WHEREAS, the generation of mixed income housing in a holistic manner over Parcel Groups 8 (excluding the Open Space Subparcel) & 9 is in the best interest of the City as it avoids detrimental impacts often associated with the concentration of poverty and provides the greatest economic, social, and educational opportunities to all residents of Hayward regardless of income; and

WHEREAS, at least 80% of the developable area of geographically clustered Parcel Groups 3 and 5 (separated only by Parcel Group 4 which is separately addressed below) will be used for the generation of housing, and at least 40% of the residential units will be affordable as specified under §37364(c-d); and

WHEREAS, the generation of mixed income housing in a comprehensive manner over Parcel Groups 3 & 5 is in the best interest of the City as it allows the housing to be built in an expedient manner with project components that are nearly shovel ready and as it avoids detrimental impacts often associated with the concentration of poverty and provides the greatest economic, social, and educational opportunities to all residents of Hayward regardless of income; and

WHEREAS, under Government Code § 54221(f)(1)(D) & (G), “exempt surplus land” is defined to include surplus land that is transferred to another local, state, or federal agency for the agency’s use or to a federally recognized California tribe, and land that has a valid legal restriction, not imposed by the local agency, preventing the development of housing; and

WHEREAS, under Government Code § 54221, surplus land does not include land necessary for an “agency’s use” which includes land being used for conservation purposes and/or for “Open-space purposes” as defined in § 54221(b)(1), (c)(1), and (d); and

WHEREAS, the Open Space Subparcel of Parcel Group 8 was created pursuant to State authorization dated March 29, 2021 and was restricted by the State for Open-Space purposes and will be either retained or transferred to another agency for Open-Space purposes or for conservation thereby rendering it exempt or non-surplus property; and

WHEREAS, under Government Code §54221(f)(1)(F)(ii) “exempt surplus land” is also defined to include surplus land that is put out to a competitive bid for a mixed-use development that is more than one acre and includes at least 300 residential units, 25% of them restricted to lower income households as set forth in Health & Safety Code §§ 50079.5, 50052.5, and 50053, for a minimum of 55 years for rental housing and 45 years for ownership housing; and

WHEREAS, Parcel Group 6 will be put out to an open competitive bid to all entities identified in the applicable HCD Expression-of-interest list under Government Code §54222(a); and

WHEREAS, Parcel Group 6 is approximately 29 acres and the proposed development will produce at least 300 residential units, with 25% of the units restricted to lower income households for a minimum of 55 years for rental housing and 45 years for ownership housing, thereby satisfying the requirements of §54221(f)(1)(F)(ii) and providing a comprehensive development addressing the needs of housing, economic development, and provision of services and infrastructure that arose following the State’s abandonment of the Route 238 project; and

WHEREAS, the City has determined that Parcel Group 4 is not necessary for the City's use as such term is used in Government Code Section 54221, and therefore desires to cause the development of Parcel Group 4 for residential use; and

WHEREAS, the City desires to declare Parcel Group 4 "surplus", despite any applicable exemption.

NOW, THEREFORE, BE IT RESOLVED, that Parcel Group 4 is hereby declared "surplus land" as defined in Government Code Section 54221.

BE IT FURTHER RESOLVED, that the City Manager shall release a Notice of Availability, in accordance with the Surplus Property Land Act (Gov. Code § 54220 et seq.), and proceed with negotiations with respondents of such notice in connection with the possible disposition of Parcel Group 4;

BE IT FURTHER RESOLVED, that Parcel Groups 3 and 5 are hereby declared "exempt surplus land" because the land will be transferred to provide affordable housing pursuant to Government Code section 37364, as the sale of these parcels for the generation of housing is in the City's best interest as set forth above and in the Staff Report accompanying this Resolution;

BE IT FURTHER RESOLVED, that Parcel Group 6 is hereby declared "exempt surplus land" because the land will be disposed of pursuant to Government Code §54221(f)(1)(F)(ii);

BE IT FURTHER RESOLVED, that Parcel Group 8 (excluding the Open Space Subparcel as shown separately in Exhibit A) is hereby declared "exempt surplus land" because the land will be transferred to provide affordable housing pursuant to Government Code section 37364;

BE IT FURTHER RESOLVED, that the Open Space Subparcel Group 8 (as shown separately in Exhibit A)) is hereby declared "exempt surplus land" pursuant to Government Code section 54221(f)(1)(D) because the land will be transferred to another local, state, or federal agency for conservation and/or Open-Space purposes pursuant to § 54221(b)(1), (c)(1), and (d);

BE IT FURTHER RESOLVED, that Parcel Group 9 is hereby declared "exempt surplus land" because the land will be transferred to provide affordable housing pursuant to Government Code section 37364; and

BE IT FURTHER RESOLVED, that the City Council directs the City Manager to transmit a copy of this Resolution to the California Department of Housing and Community Development no later than thirty (30) days prior to the disposition of the City Properties.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward