

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD FINDING
A STATUTORY CONFLICT BETWEEN GOVERNMENT CODE SECTIONS
14528.6 and 14528.65 AND THE SURPLUS LANDS ACT AND DECLARING
SPECIFIED CITY-OWNED PROPERTIES EXEMPT SURPLUS LAND

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 Properties were previously intended to be used by the State of California Department of Transportation (the "Caltrans") in connection with the failed State Route 238 expressway bypass project and were acquired by the City in trust from Caltrans under that certain Purchase and Sale Agreement, dated as of January 20, 2016, as amended (the "Purchase Agreement"); and

WHEREAS, Government Code §§14528.6 and 14528.65 (the "LATIP Statutes") were enacted to govern the disposition of the surplus City Properties and to implement the requirements of that certain "Joint Stipulation of Class Settlement and Class Settlement Agreement and Release" settling the class action lawsuit known as Robert Swanson et al. v. The California Department of Transportation et al., Alameda County Superior Court Number RG 09-476468 (the "Settlement Agreement"); and

WHEREAS, the Settlement Agreement, by its terms resolved all disputes and claims among the City, Caltrans, corridor tenants, and the Caltrans tenants organization with regards to the rental and sale of the City Properties and the corridor tenant's rights, entitlements, benefits, assistance as a result of such sales and conclusively outlined the parties agreement with regards to the affordable housing requirements that would apply to the sale of the City Properties, which obligations the City has satisfied in full; and

WHEREAS, the LATIP Statues and Settlement Agreement complement each other and together with the Purchase Agreement collectively have governed the transfer of the SR 238 Properties since 2016; and

WHEREAS, the City acquired the City Properties from Caltrans for the purposes of exchange, economic development, and to generate State funding for the local alternative transportation improvement program, which is intended to address the local transportation problems caused by the infeasibility of the Route 238 plan; and

WHEREAS, under Government Code §54266, "No provision of this Article [8 or the Surplus Lands Act] shall be applied when it conflicts with any other provisions of statutory law."

WHEREAS, the transfers of the City Properties are subject to the legislated requirements of the LATIP Statutes and the implementing Settlement Agreement and the Purchase Agreement, which collectively conflict directly with the terms of the Surplus Lands Act Government Code §54220 et. seq., as amended by State Assembly Bill 1486; and

WHEREAS, pursuant to California Government Code §54221(b)(1), the City is nonetheless declaring the City Properties exempt surplus land under Government Code §54234(a) and under §54221(F)(1)(H),

WHEREAS, under Government Code §54234(a), if a local agency, as of September 30, 2019, has executed legally binding contracts to dispose of property, the provisions of AB 1486 shall not apply, so long as the dispositions are completed no later than December 31, 2022;

WHEREAS, the City and Caltrans entered into the Purchase Agreement in January of 2016. Under the Purchase Agreement, the City is holding the City properties in trust and is required to sell the City Properties in accordance with the LATIP Statutes and the terms of the Purchase Agreement, thereby satisfying the conditions under Government Code §54234(a), so long as the City closes escrow on the City Properties (or any portion thereof) on or before December 31, 2022; and

WHEREAS, under Government Code §54221(f)(1)(H) "exempt surplus land" is defined to include surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.

WHEREAS, the City Properties are exempt surplus land under Government Code §54221(f)(1)(H) because the land was granted to the City in trust (subject to fiduciary requirements benefitting Caltrans) and the disposal of the land is authorized or required subject to conditions established by the LATIP Statutes and the complementing Settlement Agreement and Purchase Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City finds that the requirements of the LATIP Statutes and implementing contracts supersede the Surplus Lands Act, due to the non-exhaustive list of conflicts summarized the Staff Report accompanying this Resolution and incorporated into this Resolution by this reference (the "Staff Report") which collectively result in the Surplus Lands Act being made inapplicable under Government Code §54266,

ATTACHMENT II

BE IT FURTHER RESOLVED that the City Council is nonetheless declaring the City Properties exempt surplus land under Government Code §54234(a) and under §54221(F)(1)(H) making the specified findings below.

BE IT FURTHER RESOLVED that the City Council finds and declares that the City Properties are exempt surplus land under Government Code §54234(a) because the Purchase Agreement, approved in January of 2016, is an executed legally binding contract requiring the City to dispose of the City Properties.

BE IT FURTHER RESOLVED that given the uncertainty of being able to transact on all the City Properties by the Government Code §54234(a) statutory deadline and because of the conflict with the terms of the Purchase Agreement under which Caltrans requires the City to sell the City Properties prior to January 1, 2027, the City Council hereby finds and declares that the City Properties are nonetheless exempt surplus land under Government Code §54221(f)(1)(H) because the land was granted to the City in trust (subject to fiduciary requirements benefitting Caltrans) and the disposal of the land is authorized or required subject to conditions established by the LATIP Statutes and the complementing Settlement Agreement and Purchase Agreement; 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 _____, 2021

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