



DATE: April 3, 2018

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Approving Issuance of a Request for Proposals for the Sale of Former Route 238 Parcel Group 4; Generally Bounded by Westview Way, Harder Road and Calhoun Street; APN's 078-800-002-2, and 14; 445-240-5-4 and 445-250- 60

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment II) authorizing the City Manager to issue a Request for Proposals (RFP) consistent with the terms set forth herein for the sale of former Route 238 Parcel Group 4.

SUMMARY

The purpose of this item is to review the terms of the RFP to solicit proposals for the sale of the former Route 238 Parcel Group 4. Parcel Group 4 is generally located between Harder Road and Calhoun Street (See Attachment III). The parcels total approximately 80.7 acres. Most of the land is open grassland, with a cabin located in the middle of the parcel, and a barn at Calhoun Street used by the Mellow Mule Company.

BACKGROUND

After abandoning the Route 238 Bypass Project, Caltrans began selling previously acquired parcels. To ensure that future development of these parcels supports the City's land use policies and overall vision, the City negotiated a Purchase and Sale Agreement (PSA) with Caltrans to assume responsibility for the sale of these properties to private developers. The PSA provides the City with six years to sell the parcels or Caltrans may take them back. Staff recommends that Parcel Group 4 be re-sold through a competitive RFP process to ensure the best price and land use for the City.

DISCUSSION

Parcel Description

The group consists of four parcels, two parcels located north of, and at the corner of, Harder Road and Westview Way, and two parcels south of Harder Road, between Harder Road and Calhoun Street.

Parcel Constraints

The parcel group has physical constraints that limit its utility as follows:

- **Fault Zone** – Portions of Parcel Group 4 are within the fault zone.
- **Geology** – Soil stability is unknown, but the general area is affected by slides
- **Topography** – The parcel group is comprised of rugged hills that range in elevation from 160' to 440'.
- **Wetlands** – There is a small wetlands area in the southern portion of the site, totaling 1.4 acres.
- **Riparian Forest** – 17.5 acres of the parcel contains forest along water courses
- **Whipsnake Habitat** – The parcel is potentially a habitat for the Alameda Whipsnake

Existing Zoning and Development Policies

- **Zoning** – Approximately 90% of the parcel group is zoned open space due to physical constraints. This zone does not allow any residential development. The remaining 5.58 acres north of Harder Rd. is zoned Suburban Density Residential, which allows low-density single-family development (See Attachment III). **Development Restriction** – The physical constraints make the parcel largely undevelopable resulting in a low appraised value. The City and Caltrans agreed that Parcel Group 4 would be re-sold with a development restriction of 2 residential units maximum over the entire land area.

Potential Rezoning of Open Space Parcel

Respondents to the RFP may be interested in rezoning the large parcel to the south of Harder Road from Open Space to Agricultural, to allow development of one or two units south of Harder. This might be particularly attractive to a rancher interested in establishing a domicile and grazing for the property south of Harder Road, and develop additional for-sale single-family residential units north of Harder Road. The RFP indicates the City will consider an application for the rezoning, but is not obligated to approve the rezoning, and its discretion to disapprove the rezoning is in no way limited by the willingness to consider an application. In addition, the RFP states that the zoning does not allow the outdoor cultivation of cannabis for commercial purposes.

Minimum Purchase Price and Caltrans Purchase and Sale Agreement

All the parcel groups are being acquired pursuant to the Caltrans Purchase and Sale Agreement (PSA). The PSA sets forth an agreed upon methodology to determine the sales price for each parcel group based on the appraised value. Parcel Group 4 is assumed to have reduced development value due to topography and fault constraints. The RFP requires a minimum purchase price of \$1,610,000 for a proposal to be considered responsive. The RFP also states if there is interest in creating more than two units, the buyer will be required to negotiate the modification of the two-unit use restriction with the City and Caltrans, and additional compensation may be required.

Summary of RFP Requirements

In addition to the background information above, the RFP will contain the following requirements:

- **Preferred Land Uses** – Open space and a limited number of single-family homes.
- **Park Land Dedication/Fees** – If units are developed, the RFP states that park fees will be required, or the requirement may be satisfied with the dedication of a portion of the parcel as parkland.
- **Foothills Trail** – The Hayward Foothill Trail Special Design District has a requirement for a walking and bike trail to transverse the parcel, which is a requirement of the RFP.
- **Minimum Purchase Price** – The RFP establishes a minimum purchase price of \$1,610,000, which includes an administrative fee for City staff and consultant costs for preparing the RFP and negotiating disposition agreements.
- **Minimum Qualifications** – Demonstration of financial capacity to complete the acquisition is a RFP requirement.
- **Evaluation Criteria** – Are included based on the above requirements.

Acquisition Interest

The land is currently leased at a nominal rate to two tenants who are using the property for grazing. It is anticipated that one or more of these tenants may be interested in responding to the RFP, and there may be other private parties with similar needs that will be interested. There may also be interest from smaller residential developers for the development of residential units north of Harder Road, if Caltrans will approve a modification of the use restriction.

In addition to private parties, there may be interest in the property by non-profit land conservation groups or public park entities such as the East Bay Regional Parks District. Distribution of the RFP will include these groups as well.

Acquisition Negotiations

Following the Council selection of a single buyer for negotiations, the City and the buyer will start negotiations for the terms of the sale. The negotiations will require preparing and adopting two agreements between the City and the buyer:

- 1) **Exclusive Negotiating Rights Agreement (ENRA)** – This agreement will have a term of 60-180 days and will provide time for the buyer to undertake investigations to determine the suitability of the site for purchase. If there is no development or rezoning anticipated, then the ENRA phase will be short. If there are rezoning or entitlements for residential development, then the ENRA period may be longer. If there is a desire to establish more than two units, the buyer's negotiations with the City and Caltrans will also occur during this period. The product of the negotiations will be a Purchase and Sale Agreement.
- 2) **Purchase and Sale Agreement (PSA)**: This agreement will contain the purchase price and the conditions for the close of escrow.

ECONOMIC IMPACT

No property taxes are currently being paid on the parcel group. Resale of Parcel Group 4 to a non-governmental entity will place it back on the tax rolls to the benefit of all taxing entities.

The sale of the parcel group will be made pursuant to SB 470, which allows cities to sell public land for private development if the sale creates economic opportunity. Economic opportunity includes the creation and retention of jobs, increasing property tax revenues to all taxing entities, creation of affordable housing, implementation of a sustainable communities strategy, and implementation of a transit related project. The PSA for the project will need to include one or more of these elements as an obligation and/or outcome of the development.

FISCAL IMPACT

The estimated amount of new tax revenue to be generated will be calculated at the time a single proposal is selected for negotiations. An administrative fee that is included in the minimum purchase price will offset the costs of issuing the RFP and negotiating the disposition agreements.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities strategic initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This item supports the following goal:

Goal 1: Improve the quality of life for residents, business owners, and community members in all Hayward Neighborhoods

SUSTAINABILITY FEATURES

The RFP includes a reference to Green Building polices and sustainable practices are included in the evaluation criteria.

PUBLIC CONTACT

Opportunities for public input will be provided in two actions before the City Council on a regular agenda for public comment and review: 1) selection of a single buyer for negotiations and approval of the ENRA; and, 2) approval of the PSA.

NEXT STEPS

Timing will vary depending on whether the buyer intends to rezone and construct homes:

ITEM	ESTIMATED TIMING
Council Approval of RFP	April 3 rd
30 Day RFP Response Period	April 4 th – May 4 th
Staff Review of Responses	May 5 th – May 15 th
Council Approval of Buyer and ENRA	May 16 th -June 15 th
Buyer Investigations and Financing Commitment (2- 6 months)	June 15 th – November
Council Approves Purchase and Sale Agreement	November – December

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Approved by:



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