



## Legislation Details (With Text)

**File #:** 2020-879      **Version:** 1      **Name:**  
**Type:** Consent      **Status:** Agenda Ready  
**File created:** 12/2/2020      **In control:** City Council  
**On agenda:** 2/2/2021      **Final action:**  
**Title:** CONSIDER RESOLUTION NO. 21-010 DECLARING PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT REAL PROPERTY OWNED BY THE CITY LOCATED AT 2403 E. 223RD STREET (APN: 7315-012-900, 7315-012-804) IS NON-EXEMPT SURPLUS LAND AND NOT NECESSARY FOR THE CITY'S USE, TAKING RELATED ACTIONS, AND AUTHORIZING STAFF TO PROCEED TO DISPOSE OF THE PROPERTY PURSUANT TO THE SURPLUS LAND ACT (CITY COUNCIL)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit No. 1 - Vicinity Map (2403 E. 223rd Street), 2. Exhibit No. 2 - Resolution No. 21-010

Date	Ver.	Action By	Action	Result
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## Report to Mayor and City Council

Tuesday, February 02, 2021

Consent

### SUBJECT:

CONSIDER RESOLUTION NO. 21-010 DECLARING PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT REAL PROPERTY OWNED BY THE CITY LOCATED AT 2403 E. 223RD STREET (APN: 7315-012-900, 7315-012-804) IS NON-EXEMPT SURPLUS LAND AND NOT NECESSARY FOR THE CITY'S USE, TAKING RELATED ACTIONS, AND AUTHORIZING STAFF TO PROCEED TO DISPOSE OF THE PROPERTY PURSUANT TO THE SURPLUS LAND ACT (CITY COUNCIL)

### I. SUMMARY

The City currently owns an undeveloped property located at 2403 E. 223<sup>rd</sup> Street in the City of Carson (APN: 7315-012-900 and 7315-012-804) ("Property"), as visually depicted under the Vicinity Map (Exhibit No. 1). The Property is composed of vacant parcels, totaling 4.16 acres or a net 3.15 acres (137,285 sq. ft. after easements). The Property is located south of Interstate 405 (I-405), west of the Alameda Corridor (rail corridor), and north of East 223rd Street. The City was in litigation with the previous buyer for defaulting on the Purchase and Sales Agreement (PSA) and has since settled the matter.

The first step to dispose the Property pursuant to recently enacted Surplus Land Act (AB 1486) ("Act") is to declare the Property as surplus land and whether it is exempt or non-exempt. Staff is recommending the adoption of Resolution No. 21-010 to declare the Property as non-exempt surplus land and proceed with the disposition process under the Act.

## **II. RECOMMENDATION**

TAKE the following action:

1. WAIVE further reading and ADOPT Resolution No. 21-010 "A RESOLUTION DECLARING PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT REAL PROPERTY OWNED BY THE CITY LOCATED AT 2403 E. 223RD STREET (APN: 7315-012-900, 7315-012-804) IS NON-EXEMPT SURPLUS LAND AND NOT NECESSARY FOR THE CITY'S USE, TAKING RELATED ACTIONS, AND AUTHORIZING STAFF TO PROCEED TO DISPOSE OF THE PROPERTY PURSUANT TO THE SURPLUS LAND ACT"

## **III. ALTERNATIVES**

Take another action deemed appropriate by the City Council.

## **IV. BACKGROUND**

### **Property History**

In October of 2014, the City acquired the Property for the purpose of reselling it for development of tax generating uses. The gross area of the parcel is 181,245 square feet, but it is encumbered by easements (rail, slope and billboard), of which only 5% of the easements have value. The City acquired the parcel from the Successor Agency by Quitclaim Deed at the appraised value of \$3.5 million (\$25.00/sq. ft. x 137,245 sq. ft. = \$3,431,125, rounded to \$3.5 million.)

On December 19, 2017, the City adopted Resolution No. 17-172 at a public hearing and approved the sale of the Property to Carcom Center, LLC (Carcom). On August 27, 2018, the City and Carcom entered into a PSA. Shortly after, the City and California Processing Company, LLC (related to Carcom) entered into a Development Agreement to develop the Property for Cannabis operations. Carcom defaulted on the terms of the PSA and the Development Agreement. The City terminated both the PSA and the Development Agreement and initiated litigation. The Property is currently licensed to a local Carson business for vehicular storage.

On September 15, 2020, the City entered into a Settlement Agreement with Carcom terminating both the PSA and the Development Agreement. With the litigation settled, the City is now able to dispose the Property pursuant to the Act.

### **Surplus Land Act - AB 1486**

Effective January 1, 2020, the Surplus Land Act as amended by AB 1486 (codified in Government Code 54220 et seq.) (“Act”) includes, among other requirements, changing the existing, long-standing definition of “surplus land”; providing that land shall be declared either “surplus land” or “exempt surplus land” before a local agency may take any action to sell or lease land; and, adding a new limitation providing that an “agency’s use” “shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development,” or “property disposed of for the sole purpose of investment or generation or revenue.” The Act further added provisions prohibiting the City from negotiating any disposition of the property prior to compliance with the procedural requirements of the Act.

Under the Act, the City is required to take the following steps to dispose of the Property:

- 1. Declare Property as “Non-Exempt Surplus Land” - January 2021.** City Council’s declaration of the Property as Non-Exempt Surplus Land is the first step in disposing the Property in accordance with the Act. Should Council declare the Property as Non-Exempt Surplus Land, the written findings would be submitted to the State of California Housing Community Development Department (“HCD”) pursuant to the Act. A Non-Exempt declaration is recommended because the Property is undeveloped, encumbered by easements, and is not otherwise being used by the City. Staff has evaluated the Property for its potential to be used for City work or operations and has determined that the Property is not suitable for City’s use. The Property does not meet any of the “exempt” criteria under the Act (e.g., parcels less than 5,000 sq. ft., transfer to local agencies, etc.).

Pursuant to the City’s broker Christopher Beck (Newmark Knight Frank) (“City’s Broker”), the Property is estimated to be worth approximately \$7,500,000 (“Current FMV”).

- 2. Issue Notice of Availability - February 2021.** Following the “Non-Exempt Surplus Land” declaration, notices must be sent out to HCD and all entities designated in Government Code Section 54222 (“Designated Entities”), including low- and moderate-income housing sponsors, with information on the Property. Other Designated Entities listed under the Act include county and state park agencies, school districts, housing authorities, and public transportation agencies. The purpose of this notice is to allow Designated Entities the opportunity to express interest in acquiring the surplus land.

A minimum period of 60 days must be given to allow sufficient time for interested parties to respond. HCD maintains a comprehensive list of housing developers that the City would be required to notify (by letter or email). To implement this step, Staff intends on sending notices to all required entities and concurrently provide a webpage with detailed information which would affect development and use of the Property, including, but not limited to, a current preliminary title report, plotting of easements, environmental information, etc.

- 3. Review Notice of Interests/ Good Faith Negotiations - Spring/Summer 2021.** After the 60-day Notice of Availability period, staff will review proposals from interested parties, select the top proposals, and initiate the 90-day good faith negotiations period. The Act does **not** require the City to sell to any Designated Entities for less than the Current FMV at the time of transaction.

If the City receives multiple notices of interest from Designated Entities to whom the notice was sent, the City is required to give priority to the entity that agrees to use the site for affordable housing purposes as specified under the Act. If more than one entity proposes the same number of affordable units, the City must give priority to the entity that proposes the deepest average level of affordability. If the price or terms of a sale to a Designated Entity cannot be agreed upon, the City can sell the surplus land to any interested party without restriction.

At least 30 days prior to entering into any legally binding agreement, the City must provide to HCD a description of the notice of availability sent and negotiations conducted with any responding entities.

- 4. General Plan Consistency Finding / Purchase and Sales Agreement -Fall 2021.** Pursuant to the City's Charter (Section 319d): *"No real property of City shall be sold, transferred or conveyed without a finding by the planning commission and city council as to the consistency of the sale with the general plan. Moreover, real property valued at more than two million five hundred thousand dollars (\$2,500,000), may not be sold, transferred or conveyed except when approved by ordinance or resolution passed by a two-thirds affirmative vote of the city council."*

Prior to ultimate disposition to a specific buyer, the Planning Commission would be required to make a General Plan Consistency Finding. Following that determination, Council would consider making the same finding and approve the purchase and sales agreement as part the final legislative actions in the disposition process.

- 5. Escrow - End of 2021.** This final step in the disposition process is anticipated to take place at the end of this calendar year and would be coordinated at the staff level.

## **V. FISCAL IMPACT**

There are no immediate financial impacts relative to the recommended action. Some minimal direct costs will be incurred due to notices that must be mailed to the HCD and Designated Entities notifying them of the City's surplus property.

Upon receipt of any interest, Staff will comply with the applicable provisions of the Act to negotiate in good faith with those Designated Entities which respond timely. If an agreement cannot be reached with any Designated Entities, staff would proceed to offer

the Property for sale at the then current fair market value through the City's Broker.

The price and terms of the sale of the Property will be negotiated during the good faith negotiation process later this year.

## **VI. EXHIBITS**

1. Vicinity Map (pg. 5)
3. Resolution No. 21-010 (pgs. 6-9)

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