CITY OF CARSON

Legislation Details (With Text)

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Title:	CONSIDER RESOLUTION NO. 21-10-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION AUTHORITY, TO DECLARE CERTAIN REAL PROPERTY LOCATED AT 20400 SOUTH MAIN STREET IN THE CITY OF CARSON, CALIFORNIA TO BE SURPLUS AND/OR EXEMPT UNDER THE SURPLUS LAND ACT				
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Attachments:	1. EXHIBIT NO. 1:Cell 1 - Resolution of CRA Board (declaring surplus property)				

Date	Ver.	Action By	Action	Result

Report to Carson Reclamation Authority

Monday, August 02, 2021

Discussion

SUBJECT:

CONSIDER RESOLUTION NO. 21-10-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION AUTHORITY, TO DECLARE CERTAIN REAL PROPERTY LOCATED AT 20400 SOUTH MAIN STREET IN THE CITY OF CARSON, CALIFORNIA TO BE SURPLUS AND/OR EXEMPT UNDER THE SURPLUS LAND ACT

I. SUMMARY

The Surplus Land Act ("Act") governs the disposition of land owned by a city or local agency (including the Carson Reclamation Authority ("CRA")), which is sought to be sold or leased when it is no longer necessary for the city's/agency's use. In 2019, Governor Newsom signed into law AB 1486, which significantly expanded the procedural requirements under the Act which a local agency (such as the CRA) must adhere to prior to selling or leasing properties it owns to a private party. AB 1486 went into effect on January 1, 2020, and its penalty provisions for failures by any city/agency to comply with the new terms and procedural requirements under AB 1486 took effect until January 1, 2021.

AB 1486 requires that prior to any sale or lease of property owned by a local agency (or even entering into negotiations with a prospective transferee), the agency must formally declare land as either "surplus land" or "exempt surplus land" as supported by written

findings pursuant to a Resolution approved by the local agency (i.e., the CRA Board) at a regular public meeting of the agency.

The CRA is preparing to negotiate the sale / disposition of Cell 1 (the "Property"), which constitutes an approximate 15 acre portion of the former Cal-Compact Landfill, located at 20400 South Main Street in the City of Carson (the "157 Acre Site") to certain private developers who have indicated interest in acquiring and developing the Property. Any such development must coordinate with the CRA for the completion of the remediation required under the 1995 Remedial Action Plan ("RAP") adopted by the California Department of Toxic Substances Control ("DTSC") on October 25, 1995, to ensure the completion of the remedial activities required for the Property pursuant to all DTSC regulatory requirements.

Separately, the CRA has been in negotiations with a potential developer ("Faring") of Cells 3, 4, and 5 (the "Additional Landfill Property") of the 157 Acre Site since December 2020 for a new development proposal on such Cells pursuant to the Option Agreement dated January 13, 2021 between Faring and the CRA, but any potential sale to Faring under the Option Agreement would be considered as exempt under the Act, as discussed in detail below.

II. RECOMMENDATION

1. WAIVE FURTHER READING AND APPROVE RESOLUTION NO. 21-10-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION AUTHORITY TO DECLARE CERTAIN REAL PROPERTY LOCATED AT 20400 SOUTH MAIN STREET IN THE CITY OF CARSON, CALIFORNIA TO BE SURPLUS AND/OR EXEMPT UNDER THE SURPLUS LAND ACT

III. ALTERNATIVES

Take another action the Board deems appropriate.

IV. BACKGROUND

A. Overview of the Recent Changes to the Surplus Land Act

In 2019, Governor Newsom signed into law AB 1486, which significantly expanded the procedural requirements under the Surplus Land Act which a local agency must adhere to prior to selling or leasing properties it owns to a private party. The legislation is intended to address California's shortage of affordable housing by imposing stringent controls upon cities and local agencies with respect to the property they own, by requiring the agency to first offer the property for sale or lease to affordable housing developers (even if the property is not zoned for residential use) as well as a range of other state and local agencies. AB 1486 also adds new reporting requirements and subjects agencies to significant penalties for non-compliance (as detailed below).

As discussed more further below, Cell 1 of the 157 Acre Site constitutes “surplus land” under the recent changes to the Act (pursuant to AB 1486), and Cells 3, 4, and 5 constitute “exempt surplus land.”

The new procedural, reporting requirements and penalty provisions for disposal of surplus land under the Act pursuant to AB 1486 are as follows:

1. Surplus land is now defined to mean essentially all land owned by a city, successor agency, housing authority, joint powers authority, and other local agencies (including the CRA), with few exceptions for property that qualify as “exempt” under the Act. Prior to any sale or lease of such property, a local agency must formally declare land as either “surplus land” or “exempt surplus land” pursuant to a resolution and supported by written findings.

2. The definition of “exempt surplus land” includes the following (among other more minor factors): (i) properties that are less than 5,000 sq. ft. in area, (ii) land that a local agency exchanges for another property necessary for the agency’s use, (iii) land transferred to another local, state, or federal agency for the agency’s use, and (iv) land that is subject to valid legal restrictions (not imposed by the agency) that would make housing a prohibited use. Note the fact that a property is not zoned for residential use is not a qualifying legal restriction - if the property is simply zoned as Industrial/Commercial, under AB 1486, it would not qualify as exempt surplus land. But if the property does qualify under one of the above factors, and the property has been formally declared as exempt pursuant to a resolution adopted by the agency, the agency need not comply with the following procedural requirements.

3. Prior to selling or leasing any surplus land or even entering into negotiations for the sale/lease of surplus land with a prospective transferee, a local agency (including the CRA) must first offer the property for sale or lease to a “housing sponsor” for affordable housing development by issuing a notice of availability (“NOA”). The term “housing sponsor” generally means an affordable housing developer (who has registered with the Department of Housing and Community Development (“HCD”)).

4. In addition to sending a NOA to housing sponsors for surplus land, a local agency must also send a NOA to any park or recreation department or regional park authority with jurisdiction over the area, and the State Resources Agency (SRA), for purposes of park, recreation, or school facility development.

5. Any responding entity to the NOA (i.e., a housing sponsor, park or recreational department, school district or SRA) (“Responding Entity”) must notify the CRA of its interest in purchasing or leasing the property within 60 days following receipt of the NOA.

6. In negotiations with any Responding Entity, the CRA must negotiate in good faith and cannot include deal terms that would reduce or disallow residential use of the site. In addition, the CRA is not required to sell or lease the surplus land for less than its fair market value.

7. If the price and terms cannot be agreed upon between the CRA and a Responding Entity within 90 days, the CRA may then go forward to sell or lease the surplus land to a third party. However, the CRA will still have to provide the HCD a description of the NOA sent and negotiations conducted with any Responding Entity.

8. Note that the housing sponsor need not propose a development of the surplus land for 100% affordable units; the Act requires that they simply will agree to make available at least 25% of the total number of units developed on the property at an affordable housing cost or affordable rent.

9. In addition, if the CRA receives a notice of interest from more than one Responding Entity, it must give first priority to the entity that proposes the deepest average level of affordability for the affordable units.

10. If no housing sponsors respond to the NOA or if negotiations terminate and the land is later sold or leased to a market rate developer who builds more than 10 residential units, the Act requires that 15% must be sold or rented at an affordable cost or affordable rent to lower income individuals.

11. The Act requires that the HCD must review the description submitted by the CRA and submit written findings to the City within 30 days as to whether any process violations have occurred. If HCD does not respond within the 30-day time period, the local agency is not subject to any penalty under the Act.

12. Any violations of the Act are subject to harsh penalties; between 30 percent and 50 percent of the final sale price for the property. The HCD, Attorney General, and any beneficially interested entity may bring an action to enforce the Act.

B. <u>Disposition of Cell 1 of the 157 Acre Site (the Property)</u>

The CRA has offered the Property (Cell 1) for sale/transfer to developers numerous times since its acquisition of the Property in 2015, including pursuant to a Master Developer Request for Qualifications in 2016, an Invitation to Propose in 2017/18 and another Invitation to Propose in 2019. Following those unsuccessful efforts, the CRA is again proposing to put up the Property for sale and enter into negotiations with potential private developers for the disposition of Cell 1 to a private developer. However, with the recent changes to the Act under AB 1486, the CRA must comply with the procedural requirements outlined in Section A above prior to disposition.

Therefore, CRA Staff requests that the CRA Board formally declare the Property as “surplus land” and direct Staff to comply with the requirements under the Act for final disposition of the Property.

The Property constitutes a 15-acre portion of the overall Cal-Compact Landfill site (aka the “157 Acre Site”), which was operated as a landfill prior to the incorporation of the City in 1968 and as a result, the 157 Acre Site has soil and groundwater contamination that requires substantial remediation in order to allow for any vertical development. Due to the 157 Acre Site being a former landfill site, on October 25, 1995, the DTSC approved a RAP

for the 157 Acre Site, which RAP requires (as a condition to any vertical development on any Cells within the former landfill) the installation, operation and maintenance of certain remedial systems, including a landfill cap, gas extraction and treatment system, and groundwater collection and treatment system on the 157 Acre Site (including the Property) ("Remedial Systems"). In addition to the RAP, certain Consent Decrees were issued for the 157 Acre Site by DTSC in December 1995, October 2000, and January 2004 in order to resolve claims made regarding the resolution of the contamination issues afflicting the 157 Acre Site. In addition, the development of the 157 Acre Site is subject to the terms and conditions set forth in that certain document entitled Management Approach to Phased Occupancy (File No. 01215078.02), approved by DTSC in April 2018 (the "MAPO") and that certain letter regarding phased development matters, issued by DTSC to the Authority, dated October 17, 2017 (the "Phased Development Letter"). Any potential developer (including any Responding Entity's to the CRA's NOA) for the Property shall be required to comply with the above-listed regulatory requirements (and any others imposed by the State and/or DTSC with respect to such development) (collectively, the "Development Requirements"), and pay for all costs associated with its proposed development.

Additionally, the Property currently does not currently constitute a legally developable parcel, since it forms a part of the overall 157 Acre Site, and therefore, any proposed developer / purchaser of the Property will be required to parcelize the Property (the "Parcelization Requirement") prior to acquisition in accordance with the requirements under the Subdivision Map Act. However, the 157 Acre Site has been vertically subdivided into a surface lot (the "Surface Lot") and a subsurface lot (the "Subsurface Lot"), and thus, the purchaser / developer of the Property shall only be required to acquire the Surface Lot of the Property following the Parcelization Requirement; the CRA shall retain the Subsurface Lot of the Property. Any Responding Entity or proposed developer of the Property shall be required to obtain access from the CRA to the Subsurface Lot in order to implement and comply with the above-referenced Development Requirements.

C. Cells 3, 4, and 5 of the 157 Acre Site (the Additional Landfill Property)

The CRA has been in negotiations with Faring Capital, LLC (Faring) since December, 2020 for a proposed project on the Additional Landfill Property by Faring, pursuant to that certain Option Agreement, dated January 13, 2021, between the CRA and Faring (the "Option Agreement"). The Option Agreement provided for (among other things) an option right in favor of Faring or its affiliates/subsidiaries to (i) propose a development project to the CRA Board and the City Council for approval, which proposal currently consists of an industrial / fulfillment center (with logistics, e-commerce, distribution and parcel hub uses) along with an approximate 11-12 acre commercial community use area, consisting of park amenities, food and beverage vendors, programmed event space, and other related uses, and (ii) following associated CEQA review and discretionary land use entitlements for such project, acquire the Additional Landfill Property for a purchase price / consideration of $45 Million.

Such Additional Landfill Property constitutes "exempt surplus land" under the Act because there are existing legal restrictions imposed upon such property that are prohibitive of residential development that have not been imposed by the CRA or the City (such exemption is detailed in Govt. Code Sect. 54221(a)(1)(G)). Pursuant to the MAPO

(defined above, which was approved by DTSC in 2018), residential development is prohibited on the Additional Landfill Property. Therefore any sale / disposition of the Additional Landfill Property to Faring (or any of its affiliates / subsidiaries) qualifies as exempt under the Act.

Thus, in advance of the CRA's potential sale of the Additional Landfill Property to Faring (or its affiliates / subsidiaries), the CRA Staff seeks to have the CRA Board formally declare such property as exempt surplus land under the Act, pursuant to the attached Resolution.

V. FISCAL IMPACT

The CRA will collect proceeds from the sale of the Property (Cell 1 - surplus land), following the process outlined in Section IV(A) above (but the amount of such proceeds shall be subject to future negotiation and are unknown at this time), and the Additional Landfill Property (Cells 3, 4, and 5 - exempt surplus land), if Faring's proposed project receives CEQA clearance and approval from the City Council, which would result in a purchase price payment / consideration to the CRA in the amount of $45M.

VI. EXHIBITS

1. RESOLUTION NO. 21-10-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION AUTHORITY DECLARING CERTAIN REAL PROPERTY LOCATED AT 20400 S. MAIN STREET IN THE CITY OF CARSON TO BE SURPLUS AND / OR EXEMPT UNDER THE SURPLUS LAND ACT. (pgs. 7-13)

1.

Prepared by: John Raymond, Executive Director