



AGENDA STAFF REPORT

DATE: March 3, 2021

TO: Mayor and City Council

PREPARED BY: Carlos Campos, Best Best & Krieger LLP, City Attorney

SUBJECT: Resolution to (1) Declare Certain Properties Exempt Surplus Land under the Surplus Land Act; (2) Approve the Sale of Said Properties to the U.S. Army Corps of Engineers pursuant to a Purchase and Sale Agreement; and (3) Find These Actions Exempt from Review under the California Environmental Quality Act

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Recommendation: None

A Resolution of the City Council of the City of Calexico, California (1) Declaring Two Parcels of Land Along the International Border Between the United States and Mexico (APN 058-768-004 and APN 058-768-010) to be Exempt Surplus Land Under the Surplus Land Act; (2) Approving the Sale of these Properties to the United States of America Pursuant to a Purchase and Sale Agreement; and (3) Finding that these Actions are Exempt from Review Under the California Environmental Quality Act

******The U.S. Army Corps of Engineers has requested a final determination on this item and thus is being brought back to the City Council.***

Background:

On December 16, 2020 the City Council considered this same item. No decision was taken at that meeting. Now, the U.S. Army Corps of Engineers has requested a final determination on this item and thus is being brought back to the City Council.

The United States represents that it possesses a perpetual easement over the Properties and that the Properties are not buildable due to the easement.

The United States has opened an escrow account and deposited the sale amount of \$26,700; however, the funds cannot be released from escrow to the City unless and until the United States receives from the City a resolution approving the Purchase and Sale Agreement.



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The City is subject to the California Surplus Land Act (Government Code §54220 *et seq.*) (the "Act"), which requires local agencies (including cities) to determine, by governing body findings, whether land it intends to dispose of is (a) "surplus" and, if so, should first be made available to affordable housing developers; or, if surplus, (b) "exempt surplus" and not subject to the procedural requirements under the Act.

Surplus Land Act Analysis:

Section 54221(b)(1) of the Act defines "surplus land" as "land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use." Under the Act, land must be declared "either 'surplus land' or 'exempt surplus land,' as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures."

Section 54221(c)(1) defines "agency's use" to include, but not be limited to, "land that is being used, is planned to be used pursuant to a written plan adopted by the local agency's governing board for, or is disposed to support ... agency work or operations, including, but not limited to, utility sites, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants." Notably, "agency's use" does *not* include "commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development"; nor does it include "property disposed of for the sole purpose of investment or generation of revenue." Govt. C. § 54221(c)(2)(A).

Here, the Properties are undeveloped and not necessary for the City's use. They are, therefore, surplus land. Certain types of surplus land, however, depending on, *e.g.*, the recipient of the transfer, are exempt from application of the Act and its procedural requirements prioritizing the development of affordable housing. For example, surplus land that "a local agency is transferring to ... [a] federal agency for the agency's use" renders the land "exempt surplus land." Govt. C. § 54221(f)(1)(D). Here, if the City sells the Properties to the United States, the Properties are exempt surplus land, and the Act therefore does not apply. *See* Govt. C. § 54222.3 ("This article shall not apply to the disposal of exempt surplus land as defined in Section 54221 by an agency of the state or any local agency.")

CEQA Analysis:

The actions described herein are exempt from review under the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*) ("CEQA"), pursuant to CEQA Guidelines section 15312 (Surplus Government Property Sales).

Fiscal Impact:

Upon approval of the Resolution attached hereto, \$26,700.00 will accrue to the benefit of

the City's general fund.

Alternative:

1. Continue this item and provide staff with direction.

Attachments:

1. Resolution of the City Council of the City of Calexico, California (1) Declaring Two Parcels of Land Along the International Border Between the United States and Mexico (APN 058-768-004 and APN 058-768-010) to be Exempt Surplus Land Under the Surplus Land Act; (2) Approving the Sale of these Properties to the United States of America Pursuant to a Purchase and Sale Agreement; and (3) Finding that these Actions are Exempt from Review Under the California Environmental Quality Act.

RESOLUTION NO. 2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA (1) DECLARING TWO PARCELS OF LAND ALONG THE INTERNATIONAL BORDER BETWEEN THE UNITED STATES AND MEXICO (APN 058-768-004 AND APN 058-768-010) TO BE EXEMPT SURPLUS LAND UNDER THE SURPLUS LAND ACT; (2) APPROVING THE SALE OF THESE PROPERTIES TO THE UNITED STATES OF AMERICA PURSUANT TO A PURCHASE AND SALE AGREEMENT; AND (3) FINDING THAT THESE ACTIONS ARE EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Calexico, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, the City is an owner in fee simple of two (2) parcels of real property on located along the international border between the United States and Mexico (APN 058-768-004 and APN 058-768-010), as more particularly identified on Exhibits A and A-1, respectively, attached hereto and made a part hereof (the “Properties”); and

WHEREAS, under the Surplus Land Act, Government Code Sections 54220-54233 (“Act”), surplus land is land owned in fee simple by the City for which the City must take formal action in a regular public meeting declaring the land is surplus and not necessary for the City’s use. The land must be declared either surplus land or exempt surplus land; and

WHEREAS, the Properties, in the aggregate, are approximately 2.437 acres in size and are vacant and not currently being used by the City; and

WHEREAS, City staff has evaluated the Properties for their potential to be used for City work or operations, but have determined that the Properties are not suitable for the City’s use, and therefore desires that the Properties be declared surplus; and

WHEREAS, because the Properties are being sold to the United States, they are “exempt surplus land,” exempt from all requirements under the Act; and

WHEREAS, the United States has deposited the funds for purchase of the Properties into an escrow account, but the funds may not be released to the City until the United States obtains a resolution from the City approving the Offer to Sell Property/Purchase and Sale Agreement for the Properties; and

WHEREAS, the accompanying staff report provides supporting information upon which the declaration and findings set forth in this Resolution are based.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Findings. The City Council finds that all of the preceding background facts, including but not limited to the fact that the Properties are “exempt surplus land” under section 54221(f)(1)(D), are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Approval of Purchase and Sale Agreement. The City does hereby approve the Purchase and Sale Agreement and consents to its recording in the Official Records of Imperial County.

SECTION 3. Authorization. The City Manager, or designee, is hereby authorized to execute and approve any required agreement or documents facilitating the sale and disposition of the Properties to the United States.

SECTION 4. CEQA. The City Council finds that this Resolution is not subject to the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15312, because the proposed action is a sale of surplus government property.

SECTION 5. Certification. The City Clerk shall attest and certify to the passage and adoption of this Resolution and it shall become effective immediately upon its approval.

[signatures on next page]

PASSED, APPROVED and ADOPTED this 3rd day of March, 2021.

Rosie Arreola-Fernandez, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney
Best Best & Krieger LLP

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) ss.
CITY OF CALEXICO)

I HEREBY CERTIFY that the foregoing Resolution No. 2020-_____ was duly adopted by the City Council of the City of Calexico at a regular meeting thereof, held on the 3rd day of March, 2021, by the following vote of Council:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Gabriela T. Garcia, City Clerk