

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JILL SCOTT, REAL ESTATE MANAGER
REAL ESTATE SERVICES
SUBJECT: APPROVAL OF A RESOLUTION OF THE SANTA ROSA CITY
COUNCIL DECLARING THE SALE OF PROPERTY LOCATED AT
521 FIFTH STREET, APN 010-045-025, TO CORNERSTONE
PROPERTIES TO BE EXEMPT FROM THE PROVISIONS OF
THE SURPLUS LANDS ACT ENACTED BY AB 1486 (2019)

AGENDA ACTION: MOTION AND RESOLUTION

RECOMMENDATION

It is recommended by Real Estate Services that Council: 1) by motion, find good cause, under the Early Agenda Policy and the Open Government Ordinance, to consider this item, notwithstanding that the item did not appear on the preliminary agenda; and 2) by resolution, declare the sale of property located at 521 Fifth Street, APN 010-045-025, to Cornerstone Properties to be exempt from the new provisions of the Surplus Lands Act enacted by AB 1486, and direct the City Manager to submit the resolution to the California Department of Housing and Community Development ("HCD") in accordance with Section 400(e) of HCD's Surplus Lands Act Guidelines.

EXECUTIVE SUMMARY

On November 20, 2018, the City and Cornerstone Properties LLC (Cornerstone) entered into an Exclusive Negotiation Agreement (ENA) for the sale of City property located at 521 Fifth St., APN 010-045-025 (sometimes also known as 410 B St.) (Property) for purposes of a mixed-use development with not less than fifteen percent of the residential units being affordable to lower income households, community benefitting uses included on ground floor and continued public parking. In 2019 the State Legislature enacted Assembly Bill 1846 ("AB 1486"), which amended the Surplus Lands Act (SLA) and imposed new requirements that local public agencies must comply with prior to disposing of property. Government Code 54234 of the SLA declares that if an Agency has entered into an ENA prior to September 30, 2019, as the City of Santa Rosa and Cornerstone have, that transaction is exempt from the new amendments and the prior SLA requirements shall apply. Therefore, based on Government Code Section 54234, the conveyance of City Property to Cornerstone Properties is found to be exempt from the 2019 SLA requirements. The resolution declaring the exemption will

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be submitted to the California Department of Housing and Community Development (HCD) in accordance with the SLA guidelines.

BACKGROUND

On November 20, 2018, the City and Cornerstone entered into an ENA, pursuant to which the parties agreed to negotiate exclusively with one another in good faith for the sale of the Property to Cornerstone for development of a consolidated mixed use project on the Property and adjacent property already owned by Cornerstone. The project would further the City's planning and economic development objectives while also ensuring continued availability of public parking to serve the public's need. The ENA has been amended twice to extend the term, including the "First Amendment to Exclusive Negotiations Agreement" dated November 18, 2019 and the "Second Amendment to Exclusive Negotiations Agreement" dated November 19, 2020, each of which added one year to the term of the Exclusive Negotiations Agreement and allowed the parties to continue to negotiate the terms of conveyance of the Property.

The City and Cornerstone have diligently negotiated the terms of conveyance to ensure compliance with the City codes and objectives and to include conditions that require not less than fifteen percent of the residential units be affordable to lower income households, community benefitting uses on the ground floor of the development, and continued availability of public parking to replace the spaces currently provided on the Property.

Early Agenda Policy

As a preliminary step, prior to consideration of this agenda item, the Council must address compliance with the Council's Early Agenda Policy and with Section 1-10.030(G) of the City Code.

This item did not appear on the City's preliminary agenda for the May 25, 2021 Council meeting. Pursuant to the Council's Early Agenda Policy and the Council's direction for early implementation of section 1-10.030(G) of the City Code, an urgent item of business that does not appear on the preliminary agenda may nevertheless be placed on a final agenda, and discussed and acted on by Council, but only if there is a showing of good cause and only with the concurrence of six Council Members. Pursuant to the Early Agenda Policy and section 1-10.030(G), a showing of good cause requires a finding by Council that as a result of exceptional circumstances beyond the control of Council, compliance with the preliminary agenda requirement would "impose a substantial burden on the City's ability to conduct its business or result in prejudice to a private person."

The California Department of Housing and Community Development ("HCD") has adopted guidelines to help ensure compliance with the Surplus Lands Act as amended

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by AB 1486 (the “HCD Guidelines”). Section 400(e) of the HCD Guidelines provides that a local agency that determines that a property transaction is exempt from the Surplus Lands Act shall support such a determination with written findings and shall provide a copy of the written determination to HCD at least 30 days prior to disposition.

For critical financial reasons, Cornerstone is seeking to complete its purchase of the property by June 30, 2021. To meet that deadline and HCD’s 30 day notice requirement, this agenda item must move forward promptly.

PRIOR CITY COUNCIL REVIEW

On December 5, 2017, the City Council, by Resolution No. 2017-235, approved the first ENA with Cornerstone for the potential acquisition and development of the City of Santa Rosa surface parking lot two, located at 521 Fifth street.

On October 30, 2018, the City Council, by Resolution No. 2018-194 approved an ENA with Cornerstone for the potential acquisition and development of the City of Santa Rosa surface parking lot two, located at 521 Fifth street.

ANALYSIS

in 2019 the State Legislature enacted Assembly Bill 1846 (“AB 1486”), which made significant revisions to the Surplus Lands Act (Gov’t Code §§54220-54234), and imposed new requirements that local public agencies must comply with prior to disposing of property. As part of its amendments to the Surplus Lands Act, AB 1486 enacted Government Code Section 54234, which declares that “if a local agency, as of September 30, 2019, has entered into an exclusive negotiating agreement or legally binding agreement to convey the property, the provisions of this article as it existed on December 31, 2019, shall apply, without regard to the changes made to this article by the act adding this section [AB 1486], to the disposition of the property to the party that had entered into such agreement or its successors or assigns, provided the disposition is completed not later than December 31, 2022.”

The City entered into an exclusive negotiating agreement with Cornerstone to convey the Property in October 2018 and has continued to diligently pursue negotiations with Cornerstone under the ENA since that time, with both parties expending substantial time, money and resources.

Based on Government Code Section 54234, the conveyance of the Property to Cornerstone is exempt from the new provisions of the Surplus Lands Act added by AB 1486 since the parties entered into the ENA prior to September 30, 2019, provided that the disposition is completed not later than December 31, 2022.

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Staff anticipates that it will bring forward a conveyance agreement for Council consideration in early June for the sale of the Property to Cornerstone. If such agreement is approved by Council, staff anticipates expediting the transaction to provide for closure of escrow on the conveyance by or about June 30, 2021.

As required by HCD guidelines, the City desires to make a written determination that the conveyance of the Property is thus exempt from the new provisions added to the SLA by AB 1486.

Additionally, Staff requests approval by City Council for the City Manager to submit the resolution, if approved, to HCD in order to comply with HCD guidelines Sections 400 (e), and to take such additional action, in consultation with staff and the City Attorney, as may be necessary in support of the City Council's findings set forth herein.

FISCAL IMPACT

Approval of this resolution has no impact on the budget.

ENVIRONMENTAL IMPACT

The proposed action is statutorily exempt from the California Environmental Quality Act pursuant to California Government Code section 65457 and CEQA Guidelines section 15182 (c) as a residential project implementing the Downtown Station Area Specific Plan, and pursuant to California Public Resources Code section 21155.4 and CEQA Guidelines section 15182 (b) as a mixed use project that is consistent with the local Sustainable Communities Strategy, located within a transit priority area and consistent with the Downtown Station Area Specific Plan. The Environmental Impact Report for the Downtown Station Area Specific Plan was certified by the City Council in October 2020, and no events described in CEQA Guidelines section 15162 have occurred to require additional environmental analysis.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable

NOTIFICATION

Not applicable

ATTACHMENTS

- Resolution/Exhibit

CONTACT

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