



# City Council Agenda Report

ITEM NO. 12

**DATE:** July 17, 2024

**FROM:** Sheila Pautsch, Acting City Manager

**PREPARED BY:** Roxanne Diaz, City Attorney

**SUBJECT:** **CONSIDERATION OF A RESOLUTION TO DECLARE CERTAIN CITY-OWNED LAND LOCATED AT 435 FAIR OAKS (WAR MEMORIAL PARK) TO BE EXEMPT SURPLUS LAND PURSUANT TO THE SURPLUS LAND ACT AND FIND THAT SUCH DECLARATION IS EXEMPT FROM ENVIRONMENTAL REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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## Recommendation

It is recommended that the City Council consider the adoption of a Resolution declaring that the real property owned by the City located at 435 Fair Oaks is exempt surplus land pursuant to Government Code Sections 54221(b) and 54221(f)(J) and finding that such declaration is exempt from environmental review under the California Environmental Quality Act.

## Executive Summary

The South Pasadena Tournament of Roses Association (“Association”) has approached the City with regard to a potential long-term lease of a portion of the property at the War Memorial Park located at 435 Fair Oaks to construct and maintain a “Float Barn” for the Association’s annual Rose Parade float. The Surplus Land Act, however, governs the disposition of surplus lands, including long-term leases, and requires cities to follow certain procedures before any disposition of City owned land. The proposed resolution is required in order to comply with the Surplus Land Act.

## Analysis

The Surplus Land Act (Government Code sections 54220-54234; “SLA”) requires local agencies to offer surplus land for sale or lease to affordable housing developers and certain other entities through a process described therein before selling or leasing the land or engaging in negotiations to dispose of the land. However, the SLA shall not apply to the disposition of land (sale or lease) if the properties are “exempt surplus land” as defined in Government Code section 54221, provided the City Council declares the properties exempt surplus land and the City provides notice to the California Department of Housing and Community Development (“HCD”).

Government Code section 54221(f)(J) defines exempt surplus land to include land that is subject to a valid legal restriction that is not imposed by the local agency and that makes housing prohibited. Valid legal restrictions include, but are not limited to, (i) existing constraints under ownership rights or contractual rights or obligations that prevent the use of the property for housing, if the rights or obligations were agreed to prior to September 30, 2019; (ii) existing

leases, or other contractual obligations or restrictions, if the terms were agreed to prior to September 30, 2019. Documentary evidence establishing the valid legal restriction includes but is not limited to, a contract, agreed, deed restriction or other writing that documents the valid legal restriction.

As discussed above, the Property contains a restriction in the Grant Deed that only permits the use of the Property for park purposes and specifically prohibits the construction or placement of housing on the Property. As such this is a valid legal restriction documented by the grant deed that contains the deed restriction agreed to by the parties in 1908.

The City Manager and City Attorney's Office reached out to HCD to request advice on whether the restriction in the grant deed qualifies as "exempt surplus land." HCD staff concurred that the Grant Deed, which prohibits any type of housing, technically qualifies as a valid legal restriction under Government Code Section 54221(f)(1)(J). Pursuant to the SLA and HCD's guidelines, the City is required to formally declare the Property as "exempt surplus land" supported by written findings before the City can take any action to dispose of the property, or in this case a portion of the Property. This determination must be provided to HCD for its review at least 30 days prior to disposition.

Following the adoption of this Resolution and if accepted by HCD, under Government Code Section 54222.3, the Property will no longer be subject to the Surplus Land Act.

### **Fiscal Impact**

There is no fiscal impact in adopting this Resolution. If approved by HCD, the City and the Association may begin formal discussions regarding the use of a portion of the Property for the Float Barn. The costs associated with the Float Barn will be borne by the Association.

### **Commission Review and Recommendation**

This item was not reviewed by a commission or board.

### **Environmental Analysis**

With regard to the California Environmental Quality Act (Public Resources Code Section 21000 et. seq) ("CEQA"), City Staff has determined that the designation of the Property as exempt surplus land does not have the potential for creating a significant effect on the environment and is therefore exempt from further review under CEQA pursuant to State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines.

Attachment:

[Attachment No. 1 - Resolution-Exempt Surplus Land.pdf](#)