



To: Mayor and City Council
From: Tim Tucker, City Engineer
Subject: Surplus Property Policy
Date: November 29, 2016

Recommendation

Adopt resolution to comply with Assembly Bill 2135, Surplus Land Act.

Background

California cities must adopt a resolution to comply with Assembly Bill 2135 (Bill), Surplus Land Act to receive certain federal transportation funds. The Bill was approved by the Governor in 2014.

Prior to the adoption of the Bill local agencies disposing of surplus land were required to:

- a. Negotiate in good faith with certain entities (such as Habitat for Humanity, Resources for Community Development) that provided notice of a desire to purchase or lease the land and, if the price or terms could not be agreed upon within a period of not less than 60 days with those entities, the local agency could have disposed of the surplus land without fulfilling further requirements.
- b. Provide a payment period of up to 20 years in a sales contract or trust deed.
- c. Give first priority in a purchase or lease to an entity agreeing to use the site for housing for persons of low or moderate income.

These and other related provisions were not to be interpreted to empower a local agency to sell or lease surplus land at less than fair market value.

On May 12, 2015 Habitat for Humanity East Bay/Silicon Valley notified the City of their interest in pursuing low- and moderate-income housing development on the City of Martinez surplus land. They requested to be added to the interested party list for surplus land purchase and lease opportunities.

Discussion

Contra Costa Transportation Authority recently advised each Contra Costa County agency contemplating applying for grants as part of the second round of One Bay Area Grant (OBAG 2) to adopt the attached Model Resolution. Adoption of the resolution is mandated by Metropolitan Transportation Commission as part of the application process. The Resolution brings attention to a recently adopted California Assembly Bill related to the disposal of surplus land.

Assembly Bill 2135 requires:

- a. An entity proposing to use the surplus land for developing low- and moderate-income housing to agree to make available not less than 25% of the total number of units developed on the parcels at affordable housing cost or affordable rent for a period of at least 55 years to lower-income households, as those terms are defined in existing law.
- b. A local agency to give first priority in disposing of the surplus land to an entity that agrees to these requirements.
- c. These requirements, as specified, to be contained in a covenant or restriction recorded against the surplus land at the time of sale, to run with the land, and be enforceable, against any owner who violates the covenant or restriction and each successor-in-interest who continues the violation, by a residents' association, as specified, and certain individuals, that include, but are not limited to, a resident of a unit subject to these requirements.
- d. Increases the minimum time that an agency disposing of surplus land is required to conduct negotiations with certain entities desiring to purchase or lease the surplus land from 60 to 90 days.
- e. If the local agency does not agree to price and terms with those certain entities and the surplus land is used for the development of 10 or more residential units, the entity or a successor-in-interest that received the surplus land to provide not less than 15% of the total number of units developed on the parcels at affordable housing cost or affordable rent, at terms similar to an entity that received first priority for providing not less than 25% of the total number of units at affordable housing cost or affordable rent, as specified.
- f. Permits the payment period for surplus land sold for low- and moderate-income housing purposes to exceed 20 years, subject to limits related to land use requirements for low- or moderate-income housing.
- g. Deleted the statement that these provisions are not to be interpreted to empower a local agency to sell or lease surplus land at less than fair market value, and would provide that a sale or lease at or less than fair market value, as specified, shall not be construed as inconsistent with an agency's purpose.
- h. By increasing the duties of local officials in connection with sales and leases of surplus land, this bill would impose a state-mandated local program.

Fiscal Impact

Assembly Bill 2135 provides that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Failure to adopt the resolution will make the City ineligible for applying for certain state and federal transportation grants.

Attachment

- Resolution

APPROVED BY:



Brad Kilger, City Manager

RESOLUTION NO. -16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ TO COMPLY WITH
ASSEMBLY BILL 2135, SURPLUS LAND ACT**

WHEREAS, the San Francisco region has the highest housing costs in the United States; and

WHEREAS, the Bay Area produced less than 30% of the need for low- and moderate-income housing units from 2007-2014; and

WHEREAS, there are limited funding sources available to secure land for the construction of low- and moderate-income housing; and

WHEREAS, public lands can play a critical role in increasing the supply of land for affordable housing; and

WHEREAS, the Metropolitan Transportation Commission adopted Resolution No. 4202, outlining the programming policy and project selection criteria for the One Bay Area Grant Program (OBAG 2), including certain requirements to access these funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Martinez, State of California, as follows:

The City of Martinez agrees to comply with the terms of Surplus Land Act - Assembly Bill 2135 (California Government Code § 54220, et seq.), as exists now or may be amended in the future.

* * * * *

I HEREBY CERTIFY the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at an Adjourned Regular Meeting of said Council held on the 14th day of December, 2016, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ