

From: [Jennifer Ott](#)
To: [CityCouncil-List](#)
Cc: [Andrew Thomas](#); [Len Aslanian](#)
Subject: RESHAP and W. Midway Surplus Lands Exemption Resolution - REVISED
Date: Thursday, July 13, 2023 9:46:20 AM
Attachments: [RESHAP_W Midway SLA Reso Revised per HCD.pdf](#)
[image001.png](#)

Mayor and City Council:

Please find attached a revised resolution for Agenda Items 7-D and 7-E on the Tuesday, July 18th City Council meeting related to the declaration of the RESHAP and W. Midway properties as exempt surplus lands under the Surplus Lands Act. These changes were made by staff based on feedback from the State of California Housing and Community Development Department (HCD) that reviews and enforces the Surplus Lands Act. As you will see, HCD requested that the City rely on just one exemption instead of the two that were included in staff's original draft in order to streamline the review and approval process.

While we are removing the second declaration of "exempt surplus lands" based on the Military Base exception per HCD's advice, it does not preclude the City from relying on it in the future, if necessary. City staff believe the City is eligible under both criteria, but are removing the Military Base exception to streamline the review process for HCD. If the revised resolution is approved by Council Tuesday night, City staff will transmit a final, approved resolution to HCD on July 19th. Based on HCD's review of the original and revised draft resolutions, they have indicated that they will then concur with our exemption declaration in writing within the 30-day review time period.

Based on this email, the City Clerk will be uploading the revised resolution to the agenda this morning. If you have any questions, please let us know.

Thanks,
Jen

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CITY OF ALAMEDA RESOLUTION NO. _____

DECLARING THE REBUILDING EXISTING SUPPORTIVE HOUSING
AT ALAMEDA POINT (RESHAP) PROPERTY AND THE WEST
MIDWAY PROPERTY TO BE EXEMPT SURPLUS LAND UNDER THE
SURPLUS LAND ACT

WHEREAS, prior to taking any action to dispose of (i.e., sell, or lease for a term of five years or more) land owned by a local agency, the Surplus Land Act (Government Code Section 54220 - 54234) ("SLA"), requires the local agency to follow prescribed notification and negotiation procedures intended to encourage housing development, including affordable housing; and

WHEREAS, the SLA's notification and negotiation procedures do not apply to the local agency's disposal of land that qualifies as "exempt surplus land" as set forth in the SLA; and

WHEREAS, prior to taking any action to dispose of land, Government Code Section 54221(b)(1) requires the local agency to declare the land "surplus land" or "exempt surplus land" as supported by written findings; and

WHEREAS, Government Code Section 54221(b)(1) 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"; and

WHEREAS, the City of Alameda (the "City") is the owner of the real property more particularly described in the attached Exhibit A, located in the City of Alameda (the "City Property"); and

WHEREAS, the City Property is planned for supportive housing, very low income and low income housing, and market rate residential mixed use in the City of Alameda General Plan, Alameda Municipal Code, and City of Alameda Main Street Neighborhood Specific Plan, and

WHEREAS, the City Property is identified in the City of Alameda 2023-2031 Housing Element as Housing Opportunity Sites for the provision of supportive housing, an emergency shelter, deed restricted affordable housing for very low and low income households, and market rate housing to address the City of Alameda's Regional Housing Need Allocation; and

WHEREAS, the City of Alameda Planning Board held public hearings on May 8, 2023 and May 22, 2023 and approved Development Plans for the RESHAP project and the West Midway project on the City Property to provide for supportive housing, an emergency shelter, deed restricted affordable housing for very low and low income households, and market rate housing consistent with the City of Alameda Housing Element; and

WHEREAS, the City Property includes 34.5 contiguous acres of City owned property; and

~~WHEREAS, Government Code Section 54221(f)(1)(J) sets forth one of several SLA exemptions, defining as “exempt surplus land” land “that is a former military base that was conveyed by the federal government to a local agency, and is subject to Article 8 (commencing with Section 33492.125) of Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, provided that all of the following conditions are met:~~

~~(i) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base.~~

~~(ii) The affordability requirements for residential units shall be governed by a settlement agreement entered into prior to September 1, 2020. Furthermore, at least 25 percent of the initial 1,400 residential units developed shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing.~~

~~(iii) Prior to disposition of the surplus land, the agency adopts written findings that the land is exempt surplus land pursuant to this subparagraph.~~

~~(iv) Prior to the disposition of the surplus land, the recipient has negotiated a project labor agreement consistent with the local agency’s project stabilization agreement resolution, as adopted on February 2, 2021, and any succeeding ordinance, resolution, or policy, regardless of the length of the agreement between the local agency and the recipient.~~

~~(v) The agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are restricted for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.”; and~~

~~WHEREAS, the City Property satisfies all the conditions set forth in Government Code Section 54221(f)(1)(J), as follows:~~

~~(i) The City Property is located on the former Alameda Naval Air Station (“Alameda NAS”), which has an aggregate area greater than five acres, and is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment on the Alameda NAS.~~

~~(ii) The affordability requirements for residential units on the Alameda NAS are governed by a settlement agreement entered into on March 20, 2001 (the Renewed Hope Settlement Agreement). the City has granted approvals for developments and has agreements with the developers of those developments that contemplate the development of 2,082 residential units on Alameda NAS, 632~~

~~or 30% of which are required to be occupied by lower income households as defined in Health and Safety Code Section 50079.5 at affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code for a minimum of 55 years.~~

~~(iii) Upon the City Council's adoption of this Resolution, the City will have adopted written findings that the land is exempt surplus land pursuant to this Government Code Section 54221(f)(1)(J).~~

~~(iv) The recipients of the City Property have negotiated and executed project labor agreements related to development of the City Property consistent with the City's Project Stabilization Agreement resolution, as adopted on February 2, 2021.~~

~~(v) The City does and shall continue to include, in its annual report required by paragraph (2) of subdivision (a) of Section 65400 of the Government Code, the status of development of residential units on the Alameda NAS, including the total number of residential units that have been permitted and what percentage of those residential units are restricted for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, or lower income households, as defined in Section 50079.5 of the Health and Safety Code; and~~

WHEREAS, under Government Code Section 54221(f)(1)(A) "exempt surplus land" is defined to include surplus land that is transferred pursuant to Government Code Section 37364; and

WHEREAS, under Government Code Section 37364, whenever a City determines that its property can be used for the provision of affordable housing to families of low or moderate income as defined in Health & Safety Code Section 50093, and that the use is in the City's best interest, the City may sell or otherwise convey the property under whatever terms and conditions it deems appropriate as long as at least 80% of the area of the property being disposed is used for the development of housing, at least 40% of the total housing units are restricted to households whose income meets the requirements specified under Government Code Section 37364, and the affordable units are restricted by a recorded regulatory agreement to remain affordable for not less than 30 years; and

WHEREAS, the generation of mixed income housing in a holistic manner over the contiguous 34.5 acres is in the best interest of the City as it avoids detrimental impacts often associated with the concentration of poverty and provides the greatest economic, social, and educational opportunities to all residents of Alameda regardless of income; and

WHEREAS, as shown in the approved RESHAP and West Midway Development Plans and as implemented through the proposed RESHAP and West Midway Development Agreements and Disposition and Development Agreements, over 80% of the 34.5 acres will be used for the development of housing, at least 40% of the residential units will be affordable as specified under Government Code Section 37364, and the affordable units will be restricted by a recorded regulatory agreement to remain affordable for not less than 30 years.

NOW, THEREFORE, BE IT RESOLVED, that the foregoing recitals are true and correct, and, together with information provided by City staff and the public, if any, form the basis for the approvals, findings, resolutions, and determinations set forth below; and

~~BE IT FURTHER RESOLVED, that the City Property is hereby declared “exempt surplus land” because the City Property satisfies the conditions set forth in Government Code Section 54221(f)(1)(J); and~~

BE IT FURTHER RESOLVED, that the City Property is hereby declared “exempt surplus land” because the land will be transferred to provide affordable housing pursuant to Government Code Sections 54221(f)(1)(A) and 37364, as the sale of the City Property for the generation of housing is in the City’s best interest as set forth above and in the Staff Report accompanying this Resolution; and

BE IT FURTHER RESOLVED, that the City Council directs the City Manager to submit a copy of this Resolution to the California Housing and Community Development Department (“HCD”) for HCD’s review and approval in accordance with the Section 400(e) of the SLA Guidelines and HCD’s Guide to Exemptions for the Standard Surplus Land Act Process. Final disposition of the City Property shall not occur until at least 30 days after City staff submit a cop of this Resolution to HCD.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 18th of July 2023 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 19th Day of July 2023.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda

Exhibit A: RESHAP/West Midway Property

