

ORDINANCE NO. 23 - 2311

AN ORDINANCE OF THE CITY COUNCIL OF CITY OF CARSON, CALIFORNIA APPROVING AN ECONOMIC DEVELOPMENT BENEFIT AGREEMENT WITH THE CARSON RECLAMATION AUTHORITY AND CAM CARSON, LLC

WHEREAS, the City of Carson Charter at Section 206 authorizes a comprehensive set of economic development incentives and programs to promote development given the unique environmental constraints in the City of Carson, to create jobs and to preserve the sound fiscal basis of the City;

WHEREAS, the City's Charter powers include the authority to enter into agreements, and to loan, grant, fund, or finance projects which will provide public benefit and protect the public health, safety and welfare of the community, which programs may be carried out singly or in combination in a manner to promote the economic development objectives set forth in Section 206 of the Charter, which specifically allows for the use of subsidies to facilitate economic development;

WHEREAS, Section 206(B) of the Charter provides for the City's specific objective to implement a local program, given the dissolution of the City's former Redevelopment Agency, to accomplish the City's economic development purposes, including the redevelopment of various properties within the City that are vacant, contaminated, blighted, and/or were formerly operated as landfills;

WHEREAS, as set forth in Section 206(C) of the Charter, one of the primary goals of the City in adopting the Charter was to allow the City to pursue economic development to the maximum degree allowed by law, including for the purpose of eliminating blight, encouraging private investment, providing for public infrastructure, and causing the development and redevelopment of properties within the City of Carson. The authorities established under the Charter include, among other things, the allowance of the City to make provisions (and enter into agreements) with other agencies for the installation of streets, utilities, and other public improvements; providing for infrastructure financing; undertaking actions that would allow for the remediation of contaminated properties within the City; providing for the issuance of bonds or other financial instruments to carry out the purposes of the City's economic development powers and goals;

WHEREAS, the Carson Reclamation Authority ("CRA") is a joint powers authority, established for the purpose of, among other things, acquiring certain landfill properties within the City of Carson (including the 157 Acre Site (as defined below)), overseeing and facilitating the remediation and reclamation of such property acquired by the CRA, maintaining and overseeing the development of such property, and ensuring the construction and maintenance of public infrastructure and improvements upon such property;

WHEREAS, Section 206(D) of City's Charter provides that, in exercising the powers granted under the Charter, the City Council may enable the CRA to assist in the City's economic development program to incentivize private investment by the grant or loan of public resources, asset monetization, infrastructure financing, alternative procurement strategies, or other measures

to reduce the risks of private developers seeking to develop projects upon landfill property owned by the CRA to enable the development of such property (and enable any developer to earn a commercially reasonable return on their investment);

WHEREAS, additionally, Government Code Section 53803 authorizes the City to provide financial incentives to businesses to promote economic activity;

WHEREAS, in 2015, the CRA acquired, and currently owns, approximately 157 gross acres of real property in the City of Carson, as shown on the Site Map attached hereto as Exhibit A (the “157 Acre Site” or “Site”), which Site consists of a former landfill property. The 157 Acre Site is divided into five (5) cells as shown on Exhibit A attached hereto and incorporated herein (each a “Cell”, and sometimes referenced herein, as Cells 1, 2, 3, 4 and 5). In 1984, the Site was incorporated into a redevelopment project area of the Redevelopment Agency of the City of Carson:

WHEREAS, the Site was operated as a landfill prior to the incorporation of the City of Carson in 1968, known as the Cal-Compact Landfill, and as a result, the Site has soil and groundwater contamination that requires substantial remediation to allow for any vertical development. On October 25, 1995, the California Department of Toxic Substances Control (“DTSC”) approved a Remedial Action Plan (“RAP”) for the Site, and in addition to the RAP, certain Consent Decrees were issued for the Site in October 1995 (“1995 Consent Decree”) and January 2004, which were entered into by DTSC and certain responsible parties for the remediation, in order to resolve claims made regarding the resolution of the contamination issues afflicting the Site; the 1995 Consent Decree applies to the remedial obligations for the Property; and the CRA is the current responsible party for the 157 Acre Site and is subject to oversight by DTSC, in accordance with all regulatory requirements, including the RAP, 1995 Consent Decree, and other regulatory and environmental documentation (collectively, the “Environmental Regulatory Requirements”);

WHEREAS, the 157 Acre Site is one of the largest undeveloped properties along the I-405 Freeway in Los Angeles County, despite decades of efforts by prior developers and by the CRA to remediate and develop the Site; all have failed to date due primarily to the extraordinary remediation costs required to develop on a former landfill;

WHEREAS, the CRA and CAM-Carson, LLC (“CAM”) entered into that certain Conveyancing Agreement, dated as of September 6, 2018 (as amended and modified from time to time, the “Conveyancing Agreement”), which provided for, among other things, CAM’s acquisition of a fee simple interest in the Cell 2 Surface Lot (as defined in the Conveyancing Agreement) of the 157 Acre Site for the future development of a major retail mall (“Cell 2 Project”), subject to the terms and conditions set forth in the Conveyancing Agreement. While the Cell 2 Project has been delayed due to certain disputes between the CRA, City, and CAM, the construction of the remedial systems and site development improvements required for the Cell 2 Project to proceed are proposed to re-start in early 2024 pursuant to a subsequent amendment to the Conveyancing Agreement;

WHEREAS, in connection with the execution of the Conveyancing Agreement, the CRA and the City entered into that certain Cooperation Agreement, dated September 6, 2018, (as amended and modified from time to time, the “Cell 2 Cooperation Agreement”), pursuant to which,

the CRA agreed to, among other things, perform the City's infrastructure obligations under the Project Agreements (as such term is defined under the Cell 2 Cooperation Agreement), which obligations include the construction of certain street infrastructure and improvements on the Site; primarily, all the pre-construction activity, the construction of Lenardo Drive and Stamps Road and associated infrastructure and all ancillary costs related to same, (collectively, the "Infrastructure Improvements"), in order to insulate the City from any environmental liability associated with construction of the Infrastructure Improvements upon the 157 Acre Site;

WHEREAS, the Cell 2 Project includes the development of a major first-class regional fashion outlet / retail mall, which will significantly benefit the City of Carson, its residents, and the region as a whole, which specifically include the following public benefits:

a. The Cell 2 Project is estimated to produce over \$5,000,000 in annual sales taxes to the City (though a portion of which is subject to a sales tax sharing agreement pursuant to the terms of the Cell 2 Cooperation Agreement.)

b. The Cell 2 Project entails a land use that will support the creation of a major job center in the City and significantly improve the City's jobs-to-housing balance. The Cell 2 Project is proposed to provide substantial employment opportunities for the community, and is estimated to employ 1,500 new permanent jobs, 1,600 new construction jobs, with another 1,000 indirect and induced number of new employees.

c. Development of the Cell 2 Project will allow for the CRA to finally ensure the completion of the remedial systems necessary to serve Cell 2, thus allowing the CRA to comply with its obligations to DTSC, as a responsible party with respect to the 157 Acre Site.

d. The development of the Cell 2 Project will also catalyze new development within the City and the region that would enhance the values of properties surrounding the project; as such, other redounding benefits to the City resulting from the Cell 2 Project would include increased real property taxes, sales taxes, and employment generally.

WHEREAS, pursuant to the terms of the Cell 2 Cooperation Agreement, the City agreed to provide to the CRA the City's Measure R/Measure M Bond proceeds (such applicable proceeds, the "Bond Funds") bonded against the local return received from the Los Angeles Metropolitan Transportation Authority in order to pay for the construction of the Infrastructure Improvements. However, the total cost of the Infrastructure Improvements and the installation of certain remedial systems necessary to provide for a buffer zone surrounding the Cell 2 site in accordance with DTSC requirements will substantially exceed the amount of Bond Funds.

WHEREAS, after the CRA and CAM entered into the Conveyancing Agreement, a dispute arose between the Parties. In April 2020, CAM filed suit in that certain litigation captioned CAM-Carson, LLC v. Carson Reclamation Authority, et. al, Case No. 20STCV16461 (the "Litigation"), alleging, in part, breaches of the Conveyancing Agreement and Cell 2 Cooperation Agreement by the CRA and the City, and thereafter the CRA filed counterclaims in the Litigation alleging CAM had violated its obligations under the various agreements between the parties.

WHEREAS, pursuant to that certain Second Amendment to Conveyancing Agreement, between the CRA and CAM, dated as of October 11, 2022 (the "Second Amendment to

Conveyancing Agreement”), CAM and the CRA agreed to a framework upon which work could re-start to realize the development of the Cell 2 Project, which framework provided for, among other things, that the terms of the original Conveyancing Agreement shall be modified such that CAM shall be financially responsible for, among other things, the following: (i) CRA’s responsibilities for the construction and installation of all remedial systems and other site development improvements necessary to allow for the vertical development of the Cell 2 Project; and (ii) installation of the infrastructure required upon the Embankment Lot (as such term is defined under the Conveyancing Agreement) for the construction of the pylon signage to serve the 157 Acre Site. Separately, given the many years of delay on the construction work for the Infrastructure Improvements, the remedial systems and other site development improvements required for the Cell 2 Project to proceed, the costs of such improvements, and the vertical construction of the Cell 2 Project itself, have escalated significantly, based on the inflationary environment experienced within the construction sector and the regional economy as a whole. CAM has demonstrated to the City and CRA, through the submittal of financial reporting information, that it requires additional funds to make its development of Cell 2 financially feasible.

WHEREAS, separately, pursuant to that certain Option Agreement and Joint Escrow Instructions, dated as of December 17, 2020, between the Carson Reclamation Authority (“CRA”) and Faring Capital, LLC (“Faring”) (such agreement, as amended, assigned, or otherwise modified from time to time, the “Option Agreement”), Faring proposed the development of a light industrial project together with a community amenity and commercial area (“Cells 3, 4, and 5 Project”) upon the surface lot of Cells 3, 4, and 5 of the 157 Acre Site, subject to Faring’s ability to obtain certain Required Approvals (as such term is defined in the Option Agreement) for such project. Faring assigned all its rights and obligations under the Option Agreement to Carson Goose Owner, LLC (“CGO”), and CGO assumed the same pursuant to that certain Assignment of Option Agreement and Joint Escrow Instructions, dated January 15, 2021, between Faring and CGO (the “Assignment”), and subsequently CGO successfully obtained the required approvals for the Cells 3, 4, and 5 Project on June 7, 2022.

WHEREAS, CGO has agreed to provide an amount of \$12.5 Million as its estimated fair share for the construction of the Infrastructure Improvements and an additional amount of \$7.5 Million (which can be used for the construction of the Infrastructure Improvements) in the form of a Development Agreement Fee (“DAF”) pursuant to the terms of the Development Agreement, dated June 8, 2022, between the City and CGO (the “CGO Development Agreement”);

WHEREAS, despite the monies committed by CGO toward the construction of certain of the Infrastructure Improvements, the CRA has not entered into any purchase or conveyancing agreement with a developer to develop Cell 1. The development of Cell 1 would be conditioned upon the construction of the remedial systems necessary to serve the Cell 2 Project and the Cells 3, 4, and 5 Project (which shall require the approval of a Remedial Action Completion Report for same by DTSC), and the construction of the Infrastructure Improvements;

WHEREAS, the CRA needs to start with the design, planning, and construction of the Infrastructure Improvements in order to meet its obligations to CAM under the Conveyancing Agreement, and to CGO under the Option Agreement, in order to ensure the completion of the Infrastructure Improvements in accordance with the schedules for the Cell 2 Project and the Cells 3, 4, and 5 Project;

WHEREAS, to facilitate the development of the Cell 2 Project, subject to the terms and conditions herein, the City is willing to (i) provide a subsidy amount of Twenty-One Million Dollars (\$21,000,000) to CAM to assist in the cost of the additional responsibilities CAM has assumed as described in Recital 2.15 and towards CAM’s fair share of the Infrastructure Improvements obligations under the Conveyancing Agreement; and (ii) provide an additional subsidy payment [in the amount of Five Million Dollars (\$5,000,000) to the CRA to ensure that the Infrastructure Improvements are able to be constructed in a timely manner and that the CRA has sufficient funding for all related and ancillary fees and costs associated with the oversight of such improvements, pursuant to the terms and conditions of this Agreement;

WHEREAS, the subsidies provided for in this Agreement are justified because the 157 Acre Site is one of the largest undeveloped properties along the I-405 Freeway in Los Angeles County, despite decades of efforts by prior developers and by the CRA to remediate and develop the Site, all of which have failed to date due primarily to the extraordinary remediation costs required to develop on a former landfill. The subsidies provided by the City herein will (i) facilitate the development of all five Cells on the Site with new commercial, industrial, and residential uses that will generate significant amounts of additional sales and property tax revenues for the City, which will create significant number of well-paid construction and other jobs within the City, and will increase the City’s housing stock provide new amenities for City residents and the region, including visitors to the City, and (ii) ensure that the CRA will have sufficient funding necessary to ensure the completion of the Infrastructure Improvements;

WHEREAS, in accordance with the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 et seq.), and any applicable local CEQA policies and procedures, the Agreement is not a “project” for purposes of CEQA, as that term is defined by the CEQA Guidelines section 15378, because the Agreement merely contemplates a government funding mechanism or other government fiscal activity, which does not involve any commitment to any specific project which may result in potentially significant physical impact on the environment, pursuant to Guidelines section 15378(b)(4), or alternatively, it constitutes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment pursuant to Guidelines section 15378(b)(5); and

WHEREAS, on December 19, 2023, the City Council held a public hearing, duly noticed pursuant to Government Code Section 53803 and published on the City’s website, including the information required by Section 53083, considered all written documentation and testimony provided at the hearing and closed the public hearing regarding the adoption of this Ordinance and approval of the Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. RECITALS. The foregoing Recitals are true and correct, and are incorporated herein as findings of fact.

SECTION 2. PUBLIC BENEFITS. The City Council finds that the Agreement serves valid public purposes and is consistent with the authority set forth in City of Carson Charter Section 206 and Government Code Section 53083 insofar as the Agreement fosters the development of a severely blighted, undeveloped and contaminated site. The Agreement further

serves a public purpose by facilitating the generation of significant new sales tax revenue to the City, as well as the creation of a significant number of new construction and permanent jobs.

SECTION 3. APPROVAL. In light of the strong public benefits served by the Agreement, the City Council hereby approves the Agreement in the form presented at the public hearing with this Ordinance, subject to approval as to the form of the final Agreement by the City Attorney.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 6. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance and shall cause the same to be posted and codified in the manner required by law.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this ____ day of December 2023.

Lula Davis-Holmes, Mayor

ATTEST:

Dr. Khaleah K. Bradshaw, City Clerk

APPROVED AS TO FORM:

Sunny K. Soltani, City Attorney