

**RESOLUTION NO. 21-114**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO RIGHT OF WAY CONTRACT AGREEMENT BETWEEN THE CITY OF CARSON AND THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR STORAGE AND CONSTRUCTION EASEMENTS OF A PORTION OF CITY-OWNED REAL PROPERTY LOCATED ON E. 223RD STREET (APN 7315-012-900)**

**WHEREAS**, the City of Carson ("City") owns that certain unimproved real property located in the City of Carson, County of Los Angeles, State of California as legally described on Exhibit A attached hereto (APN 7315-012-900) and located north of East 223rd Street, south of the 405 freeway and west of South Alameda Street as depicted on Exhibit A attached hereto ("Real Property"); and

**WHEREAS**, the State of California, Department of Transportation ("State") is in the process of retrofitting the Dolores Yard Overhead Bridge (Bridge No. 53-1168) in the City ("Bridge"); and

**WHEREAS**, the State needs to acquire a temporary easement in the Property for: (i) storage of its equipment on a portion of the Real Property ("Property") and ingress and egress thereto; and (ii) a temporary construction easement in order to retrofit the Bridge ("Bridge Project"); and

**WHEREAS**, the State requires the Property for State highway purposes, a public use for which State has the authority to exercise the power of eminent domain to acquire real property interests for the highway purposes; and

**WHEREAS**, both the City and the State recognize the expense, time, effort, and risk to both Parties in determining compensation for the Property by eminent domain litigation and instead wishes to enter into a Right of Way Contract – State Highway ("Agreement") for the Property in compromise and settlement, in lieu of such litigation; and

**WHEREAS**, to avoid litigation, the Parties are willing to enter into a grant of temporary easements on the Property upon the terms and conditions specified in the proposed Agreement; and

**WHEREAS**, time being of the essence and to ensure the process was expedited, on June 1, 2021, the Council adopted Resolution No. 21-068 granting the City Manager the authority to make and / or accept minor modifications to finalize the draft Agreement and take any other related actions; and

**WHEREAS**, the State subsequently proposed material changes to the original draft Agreement and Staff is providing an updated draft Agreement for Council's consideration; and

**WHEREAS**, time is of the essence and to ensure the process is expedited, staff recommends Council grant the City Manager the authority to make and / or accept minor modifications to finalize the draft Agreement and take any other related actions contemplated by this Resolution.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, DOES HEREBY RESOLVE AS FOLLOWS:**

**1. Recitals.** The Council finds and determines that all the foregoing recitals are true and correct and incorporated herein by this reference.

**2. Intention to Enter into Agreement.** The Council intends to enter into the revised Agreement, attached hereto as Exhibit B, subject to final changes as may be approved by the City Manager and City Attorney.

**3. Authorization.** The City Manager is hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution including finalizing and executing of the Agreement and to make modifications to the Agreement as the City Manager reasonably determines to be necessary to effectuate the transaction and approved by the City Attorney.

**4. Effective Date.** This Resolution shall be effective immediately upon its adoption.

**5. Certify.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Carson at a regular meeting held on the 7<sup>th</sup> day of September, 2021.

APPROVED AS TO FORM:

CITY OF CARSON:

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Sunny K. Soltani, City Attorney

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Lula Davis-Holmes, Mayor

ATTEST:

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John W. Carroll Sr., Chief Deputy City Clerk

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF CARSON               )

I, John W. Carroll Sr., Chief Deputy City Clerk of the City of Carson, California, hereby attest to and certify that the foregoing resolution, being Resolution No. 21-114, adopted by the City of Carson City Council at its meeting held on September 7, 2021, by the following vote:

AYES:               COUNCIL MEMBERS:

NOES:               COUNCIL MEMBERS:

ABSTAIN:           COUNCIL MEMBERS:

ABSENT:            COUNCIL MEMBERS:

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John W. Carroll Sr., Chief Deputy City Clerk

**EXHIBIT A**

**REAL PROPERTY**



PORTION OF BLOCK 10, RANCHO SAN PEDRO, M.R. 1002/1102

81291-1

81291-2

81290-1

81290-2

223R

VARIES

N85°49'25"W

N17°18'50"E

97.39' (91.39')

88°58'25"E

87.41'

15°10'20"W

142.65'

17°18'50"E

478.24'

479.30'

14.68'

81.60'

13°05'01"E

84.19'

50°12'50"E

81291-1

N61°12'23"W

110.52'

81291-2

S0°00'13"W

120.04'

81291-2

E.X.P. 7/5/2023

81290-2

7/5/2023

81290-1

E.X.P. 7/5/2023

N5°00'15"E

15.89'

N6°16'10"E

16.10'

S0°00'13"W

84.93'

Δ=00°42'36"

R=1950.00'

L=24.16'

W (RAD)

W (RAD)

N99°58'10"W

R=2000.00'

L=327.95'

50'

100'

25'

12'

223R

(PREVIOUS ALIGNMENT)

### 81291-2 (Area Primarily for Storage)

**EXHIBIT B**

**DRAFT RIGHT OF WAY CONTRACT**

**RIGHT OF WAY CONTRACT – STATE HIGHWAY**

DISTRICT <b>7</b>	COUNTY <b>LA</b>	ROUTE <b>405</b>	POST <b>8.8</b>	EA / PROJECT ID NUMBER <b>EA 304801 / 0714000084</b>
DATE <b>08-11-2021</b>			ACQUISITION TYPE <b>Temporary Construction Easements</b>	
GRANTOR <b>City of Carson</b>				
PROPERTY ADDRESS <b>Adjacent to 2233 E. 223<sup>rd</sup> St. Carson CA 90810</b>			APN <b>7315-012-900</b>	

This agreement is made by and between the **State of California, Department of Transportation** (the “State”), and **City of Carson**, (the “Grantor”), collectively, the “Parties,” for the purchase of certain property interests described herein.

Grantor owns that certain real property commonly described above and legally described on Exhibit “A” (“Grantor’s Property”). The property interests acquired under this agreement are: (i) Parcel Number 81291-1 being a Temporary Construction Easement consisting of 26,935 square feet for access and construction purposes; primarily for access as depicted on Exhibit “B” and (ii) Parcel Number 81291-2 being a Temporary Construction Easement consisting of 18,820 square feet primarily for construction and storage purposes in conjunction with the adjoining railroad property to the east as depicted on Exhibit “B”. The Temporary Construction Easements are sometimes jointly referred to as the “Easements.”

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The Parties herein:

- (A) Have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for the Easements and shall relieve the State of all further obligations or claims for the Easements.
- (B) Recognize the State requires the Easements for highway purposes, a public use for which State has the authority to exercise the power of eminent domain. Grantor is compelled to grant the temporary use, and the State is compelled to the temporary use of the Easements.
- (C) Recognize the expense, time, effort, and risk to both parties in determining the compensation for the property by eminent domain litigation. The compensation set forth herein for the property is in compromise and settlement, in lieu of such litigation.
- (D) Shall, pursuant Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT- Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21 and 28 C.F.R. Section 50.3.
- (E) No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this agreement.



**RIGHT OF WAY CONTRACT – STATE HIGHWAY**

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2. The State shall pay the Grantor the sum of **Six Hundred Fifty-One Thousand Three Hundred Forty-Two Dollars (\$651,342) (“Compensation”)** for the Easements for the Term (defined below). The State shall pay all escrow and recording fees incurred in this transaction, and if title insurance is desired by the State, the premium charged therefore. The State shall pay the Grantor the full Compensation upfront on or before the date of recordation of the Easements
3. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this agreement, the right of possession and use of the Easements by the State, including the right to remove and dispose of improvements (pursuant to Clause 13), shall commence on the date the Compensation is paid to Grantor. The Compensation includes, but is not limited to, full payment for such possession and use of the Easements from said date. The State requires **45,755 square foot** area, shown outlined on the map attached hereto for the purpose of constructing the State’s overall project identified as the **Bridge Preservation Project** and only in accordance with and subject to the provisions and limitations of this agreement.
4. No improvements exist in the Easement areas and Grantor agrees not to install any improvements (including any crops, trees or shrubs) that would unreasonably interfere with the Easements. The State accepts the Easement area in AS-IS condition but may remove any obstructions at its own cost.
5. It is understood and agreed that included in the Compensation is compensation in full for State’s use of the Easements identified in this agreement for a period of 28 months commencing on the date of recordation of the Easements (**“Term”**). The State shall provide written notice via email of the date escrow closes to Grantor at the address listed in paragraph 15(A) together with a copy of the recorded Easements. The State has no right to extend its possession beyond the Term.
6. A portion of the real property not within the Easements is subject to that certain License Agreement dated November 30, 2019 with WIN Chevrolet, Inc. a California corporation (**“Existing Tenant”**) which is used for parking inventory vehicles (**“Existing Lease”**). The State shall not unreasonably interfere with the Existing Tenant’s access rights under the Existing Lease and the Existing Tenant’s use of the Easements.
7. Grantor intends sell the Property and, therefore, reserves the right to allow third parties on the Easement areas in order to conduct investigations of the soils, geological studies, ALTA survey and other matters as it deems necessary provided such investigations do not unreasonably interfere with State’s use of the Easements. Grantor shall provide written notice to the State at least four (4) business days prior to the commencement of any such investigations, studies or surveys at the address listed in paragraph 15(B). Grantor shall provide written notice via email to the State at least eight (8) business days prior to the commencement of any soil gas survey or sampling activities, and any such survey or sampling activities. Such activities shall take place within a footprint not to exceed 22’ x 12’ with access/drive path to the sampling location to be as directed by the State’s contractor. No remediation will be conducted on the Easement area except as specified in paragraph 11 or otherwise agreed to by the State in advance. If Grantor sells, leases or rents any or all of the Grantor’s Property, Grantor shall inform such buyer or tenant of the existence of this agreement to which their interests shall be subordinate. Furthermore, upon the sale or lease of the Property, Grantor shall inform the State, in writing at the address listed below.
8. State agrees to indemnify and hold harmless the Grantor from any liability arising out of State’s operations under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State’s operations under this agreement and State will, at its option, either repair or pay for such damage.

**RIGHT OF WAY CONTRACT – STATE HIGHWAY**

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9. All work done by the State under this agreement shall conform to all applicable building, fire and sanitary laws, ordinances, and regulations relating to such work, and shall be done in a good and workmanlike manner. All structures, improvements, other facilities and the land, if any, when removed, relocated, reconstructed or modified by the State, shall be left or restored in as good condition as found.
10. In consideration of the State's waiving the defects and imperfections in all matters of record title, Grantor covenants and agrees to indemnify and hold the State harmless from any and all claims that other parties may make or assert on the title to property. Grantor's obligation herein to indemnify the State shall not exceed the amount paid to the Grantor under this agreement.
11. The Compensation for the Easements reflects the fair market value of the Easements on the Grantor Property without the presence of contamination. If the area of the Easements is found to be contaminated by the presence of hazardous waste, which requires mitigation, Grantor shall be notified in writing of such contamination and the requirement of any mitigation required under Federal or state law. If the mitigation is not completed by Grantor, the State may, upon written notice to Grantor, elect to perform such work and recover its cleanup costs from those who caused or contributed to the contamination.
12. It is agreed and confirmed by the Parties that notwithstanding other provisions in this agreement, the right of possession and use of the Easements by the State, including the right to remove and dispose of improvements under paragraph 13, shall commence on the date the Compensation is paid to Grantor. The Compensation includes, but is not limited to, full payment for such right of possession and use during the Term.
13. Grantor agrees that no improvements (including planting of any crops, trees or shrubs) shall be placed on Grantor's Property which will unreasonably interfere with the Easements. Grantor agrees that if any improvements installed after the date of this Agreement which interfere with the Easements such improvements are at the Grantor's risk and without expectation of payment if removed by the State in order to use the Easements.
14. It is agreed that the Compensation shall be payable to City of Carson.
15. At least two (2) business days advance written notice via email will be given before any entry on Grantor's Property. Business days do not include Fridays as Grantor is closed on Fridays. Said notification shall be as follows:

(A) Written (via email) and Verbal notification shall be given to the Grantor at:

**Eliza Jane Whitman, Director of Public Works**  
**City of Carson**  
**701 E Carson St.**  
**Carson, CA 90745**  
**(310) 830-7600**  
[ejwhitman@carsonca.gov](mailto:ejwhitman@carsonca.gov)

(B) In the event this information changes or property transfers, the Grantor shall notify State in writing via email of such occurrence at:

**State of California**  
**Department of Transportation**

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**RIGHT OF WAY CONTRACT – STATE HIGHWAY**

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**Right of Way, Acquisition**  
**100 S. Main Street, MS 6**  
**Los Angeles, CA 90012**  
**Attention: Michael Means, Associate Right of Way Agent**  
**(213) 264-9109**  
[Michael.Means@dot.ca.gov](mailto:Michael.Means@dot.ca.gov)

16. This transaction will be handled through an internal escrow by the State of California, **Department of Transportation, District 7, located at 100 South Main Street, Los Angeles, CA 90012.**

**In WITNESS WHEREOF**, the Parties have executed this agreement the day and year first above written.

**STATE:**

State of California  
Department of Transportation as Grantee

**GRANTOR:**

City of Carson

Recommended for Approval:

By: \_\_\_\_\_  
Lula Davis-Holmes, Mayor

By: \_\_\_\_\_  
Michael Means Associate Right of Way Agent  
Right of Way Acquisition Branch A

Date: \_\_\_\_\_, 2021

**ATTEST:**

By: \_\_\_\_\_  
Jennifer Pham, Senior Right of Way Agent  
Right of Way Acquisition Branch A

\_\_\_\_\_  
John W. Carroll Sr., Chief Deputy City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Mark Lyles, Office Chief  
Right of Way Acquisition, Condemnation and  
Local Programs

By: \_\_\_\_\_  
Sunny Soltani, City Attorney (ANL)

**APPROVED:**

By: \_\_\_\_\_  
Edward Francis, Deputy District Director  
Division of Right of Way  
Department of Transportation  
Caltrans – District 7

**No Obligation Other Than Those Set Forth Herein Will Be Recognized**

DRAFT

## **Exhibit “A”**

### **Legal Description of Grantor Property**

That certain real property in the City of Carson, County of Los Angeles, State of California legally described as follows:

THAT PORTION OF LOT 6 IN BLOCK "C" OF THE SUBDIVISION OF A PART OF THE RANCHO SAN PEDRO, (ALSO KNOWN AS DOMINGUEZ COLONY), IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAPS RECORDED IN BOOK 1, PAGES 601 AND 602, AND BOOK 32, PAGES 97 AND 98 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BOUNDED AS FOLLOWS:

ON THE NORTH BY THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA, AS RECORDED IN BOOK D748, PAGE 676, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, (NOW KNOWN AS THE SAN DIEGO FREEWAY); ON THE SOUTH BOUNDED SOUTHERLY BY NORTHERLY LINE OF 100' STRIP OF LAND DESCRIBED PER (PARCEL 12-13;) IN DECREE OF CONDEMNATION, RECORDED OCTOBER 5, 1973, INSTRUMENT NO. 4331, OFFICIAL RECORDS; ON THE WEST BY A LINE WHICH IS AT RIGHT ANGLES TO SAID LAST MENTIONED CENTERLINE AND WHICH PASSES THROUGH A POINT IN SAID CENTERLINE, DISTANT EASTERLY HEREON, 1607.85 FEET FROM THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF LOT 5 OF SAID BLOCK "C", AND ON THE EAST BY THE WESTERLY LINE OF THAT CERTAIN 250 FOOT STRIP OF LAND DESCRIBED FIRST IN DEED TO THE PACIFIC ELECTRIC LAND COMPANY RECORDED AS INSTRUMENT NO. 1314 ON JANUARY 24, 1924, IN BOOK 2683, PAGE 358, OFFICIAL RECORDS

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# Exhibit “B” Right of Way Map

