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Title: CONSIDERATION OF RESOLUTION NO. 20-023 APPROVING THE PURCHASE OF ENVIRONMENTAL INSURANCE FOR THE NEW CITY YARD PROPERTY LOCATED AT 18620 SOUTH BROADWAY & 18601 SOUTH MAIN STREET IN THE CITY OF CARSON (CITY COUNCIL)

Sponsors:

Indexes:

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Attachments: 1. Resolution No. 20-033, 2. Summary of Pollution Legal Liability Policy

Date	Ver.	Action By	Action	Result
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Report to Mayor and City Council

Tuesday, February 04, 2020

Consent

SUBJECT:

CONSIDERATION OF RESOLUTION NO. 20-023 APPROVING THE PURCHASE OF ENVIRONMENTAL INSURANCE FOR THE NEW CITY YARD PROPERTY LOCATED AT 18620 SOUTH BROADWAY & 18601 SOUTH MAIN STREET IN THE CITY OF CARSON (CITY COUNCIL)

I. SUMMARY

On June 18, 2019, the City Council approved an “Exchange Agreement under Threat of Condemnation and Joint Escrow Instructions” (“Exchange Agreement”) with Prologis Targeted U.S. Logistics Fund, LP (“Prologis”) that provided for the City to exchange its existing City Yard property, located at 2390/2400 E. Dominguez St. (“City Property”), for Prologis’ property located at 18620 South Broadway & 18601 South Main Street in the City of Carson (the “Prologis Property”).

The City’s primary objective in pursuing the Exchange Agreement is to acquire the Prologis Property for use as the City’s new corporate yard. Under the Exchange Agreement, the City Property was valued at \$25,824,000, whereas the Prologis Property was valued at \$15,624,000, with the net difference of \$10,200,000 payable to the City making certain improvements to existing building(s) on the Prologis Property for City’s future use (the “Improvements”).

One of the requirements of the Exchange Agreement is for the City to provide Prologis with evidence of having obtained an environmental insurance policy in favor of the City (or the Carson Reclamation Authority, as applicable), which shall be in effect as of the date of closing of escrow for the property exchange transaction (defined to be 45 days after substantial completion of the Improvements by Prologis; hereinafter, the “Closing”).

Prologis included an additional \$200,000 in the valuation of the City Property in the Exchange Agreement and to thereby increase the net amount payable to the City by \$200,000 to cover the costs of purchasing the insurance.

Adoption of the proposed resolution would approve the purchase of a policy of pollution liability insurance covering the Prologis Property for a term of 10 years for pre-existing conditions and 5 years for new conditions, and covering new conditions commencing at the City property prior to the Closing, at a premium of \$153,352.06, to satisfy the aforementioned condition of the Exchange Agreement and to provide the City with protection against any environmental risks associated with its future operation of the Prologis Property as the new City Yard.

The City Manager, in consultation with the City Attorney, would be authorized to execute such documents as reasonably necessary to carry out the purchase of the insurance policy as authorized by the resolution.

II. RECOMMENDATION

TAKE the following action:

1. ADOPT Resolution No. 20-023, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, APPROVING THE PURCHASE OF POLLUTION LEGAL LIABILITY INSURANCE FOR THE NEW CITY YARD PROPERTY LOCATED AT 18620 SOUTH BROADWAY & 18601 SOUTH MAIN STREET IN THE CITY OF CARSON

III. ALTERNATIVES

1. TAKE another action the City Council deems appropriate, subject to the requirements of applicable law.

IV. BACKGROUND

A pollution legal liability insurance (“PLL”) policy is an environmental insurance policy that generally helps cover the environmental risks associated with owning, developing or operating a facility or site.

The policy at issue is being proposed pursuant to a requirement of the Exchange Agreement that was intended as an extra layer of protection for the City against environmental risks associated with operating the Prologis Property, in light of its prior industrial uses. This added layer of protection is provided notwithstanding the fact that Phase I and II environmental studies have been conducted for the Prologis Property and

Prologis' environmental consultant (Partners) has issued a report that was peer reviewed by the City's environmental consultant (Andersons/EFI), indicating that there are no major environmental concerns on the property, which report is accompanied by a reliance letter from each consultant supported by \$5M in errors and omissions insurance in favor of the City. Both consultants are elite worldwide environmental firms.

A request for proposal was made and 3 bids were received to move forward with the vetting of a proper PLL. The proposed PLL policy provides claims-made primary pollution coverage for the former City Yard (the City Property) and the new City Yard (the Prologis Property) for third-party bodily injury and property damage claims and for clean-up costs arising out of pre-existing or new pollution conditions at, on, under or migrating from the properties. The PLL Policy contains \$10,000,000 limits of liability per incident and in the aggregate, a self-insured retention of \$250,000 per incident, and a term of ten (10) years for pre-existing conditions and five (5) years for new conditions. The PLL Policy is structured to provide affirmative coverage to the City for: (i) pre-existing and new conditions at the New City Yards and (ii) conditions commencing at the Former City Yards prior to the closing date. The total premium, including surplus lines taxes and stamping fees, for the PLL Policy is \$153,352.06.

Further details on the terms of the insurance policy are set forth in the "Summary of Insurance" attached hereto as Exhibit 2.

Although not reflected in the quote or the summary of insurance, the insurer has agreed to include the Carson Reclamation Authority ("CRA") as an additional named insured on the PLL Policy. Naming the CRA as an additional insured may obviate the need for the City to transfer the insurance policy to the CRA upon transfer of the property title to the CRA. Accordingly, although further risk management review on the topic will likely be required at that time, the Council's authorization of the purchase of the PLL Policy in the proposed resolution includes a directive that the CRA be named as an additional insured on the policy.

V. FISCAL IMPACT

Prologis has more than covered the City's purchase of the proposed insurance coverage by increasing the net amount of funds payable to the City pursuant to the Exchange Agreement by \$200,000. Thus, although the \$148,525 premium would be paid from City account(s), the net impact on the City is a positive \$51,475 with respect to the 10-year policy term.

VI. EXHIBITS

1. Resolution No. 20-023 (Pgs. 4-10)
 - A. Quote
2. Summary of Insurance Terms (Pgs. 11-12)

1.

Prepared by: City Attorney's Office