



## Legislation Text

File #: 2023-0937, Version: 1

### Report to Mayor and City Council

Tuesday, December 19, 2023

Special Orders of the Day

#### SUBJECT:

**PUBLIC HEARING TO CONSIDER INTRODUCTION OF ORDINANCE NO. 23-2311 ADOPTING AN ECONOMIC DEVELOPMENT BENEFIT AGREEMENT WITH THE CARSON RECLAMATION AUTHORITY, A CALIFORNIA JOINT POWERS AUTHORITY, AND CAM-CARSON, LLC, A LIMITED LIABILITY COMPANY, TO PROVIDE AN ECONOMIC DEVELOPMENT SUBSIDY FOR THE DEVELOPMENT OF A PORTION OF THE FORMER CAL-COMPACT LANDFILL, 20400 SOUTH MAIN STREET, CARSON; AND, RESOLUTION NO. 23-201, A RESOLUTION AMENDING THE AUTHORITY'S BUDGET FOR FISCAL YEAR 2023-2024 AND APPROPRIATING THE FUNDS FROM THE CITY'S GENERAL FUND RESERVES**

#### **I. SUMMARY**

The City is proposing to enter into an agreement with the Carson Reclamation Authority (the "CRA") and CAM-Carson, LLC ("CAM") to provide financial assistance in the form of an economic development subsidy to the CRA as described in the Economic Development Benefit Agreement, pursuant to Section 53083(a) and (b) of the California Government Code (AB 562).

On November 6, 2018, the City's voters approved a new Charter for the City of Carson ("Charter") which included a comprehensive set of economic development incentives and programs to promote development within the City of Carson, to create jobs and to preserve the sound fiscal basis of City. It includes the specific goal of establishing the City as an economic powerhouse at the center of major regional transportation corridors, based on the unique development opportunities within the City and its location within Los Angeles County.

Given the dissolution of the City's former Redevelopment Agency, Section 206(B) of the Charter contains a specific objective to implement a local program 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, such as the former Cal Compact Landfill owned by the CRA.

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.

Under this Agreement, the City will directly transfer \$21,000,000 (the "Economic Development Benefit Contribution") to the CRA following the execution of the Agreement; the CRA will make a deposit into escrow to be used to fulfill its obligations and close escrow with CAM on or before March 15, 2024, and CAM will proceed with the development of a retail mall on a 41-acre portion of property located on a property known as Cell 2 of the Former Cal Compact Landfill. In addition, the City will also transfer \$5,000,000 to the CRA for other costs associated with the management of the project site and design, approval, and construction of infrastructure or other operating costs.

If the escrow between the CRA and CAM doesn't close and the parties do not proceed with the development of the project, the \$21,000,000 deposit will be returned to the City.

## **II. RECOMMENDATION**

**TAKE** the following actions:

1. **OPEN** the public hearing;
2. **TAKE** public testimony and accept any written and/or oral communications;
3. **CLOSE** the public hearing; AND
4. **WAIVE** further reading and introduce for first reading Ordinance No. 23-2311, entitled "AN ORDINANCE OF THE CITY COUNCIL OF CITY OF CARSON, CALIFORNIA ADOPTING AN ECONOMIC DEVELOPMENT BENEFIT AGREEMENT WITH THE CARSON RECLAMATION AUTHORITY AND CAM-CARSON, LLC"
5. APPROVE Resolution No. 23-201, A RESOLUTION OF THE CITY OF CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2023-24 BUDGET IN THE GENERAL FUND, IN THE AMOUNT OF \$26,000,000.
6. AUTHORIZE the Mayor to execute all documents in a form acceptable to the City Attorney.

## **III. ALTERNATIVES**

TAKE another action the City Council deems appropriate.

## **IV. BACKGROUND**

On December 19, 2023, the City Council will hold a public hearing pursuant to Section 53083(a) and (b) of the California Government Code (AB 562) and Charter sections 206 and 313. The City is proposing an economic development subsidy to assist in the City's

economic development efforts to bring high quality retail to the Carson community that will likely result in higher sales tax revenues and create jobs within the City, which will implement the provisions of AB 562, a statewide economic development tool passed by Governor Brown in late 2013 for the purpose of allowing local jurisdictions to induce economic development.

The City is proposing to enter into an agreement with the CRA and CAM to provide financial assistance in the form of an economic development subsidy to the CRA as described in the Economic Development Benefit Agreement.

### Public Purpose

On November 6, 2018, the City's voters approved a new Charter for the City of Carson ("**Charter**") which included a comprehensive set of economic development incentives and programs to promote development within the City of Carson, to create jobs and to preserve the sound fiscal basis of City.

The Charter includes the specific goal of establishing the City as an economic powerhouse at the center of major regional transportation corridors, based on the unique development opportunities within the City and its location within Los Angeles County, and that proper development could allow the City to provide the highest quality of life and services to its residents, while at the same time, promoting social, economic, and environmental quality and justice.

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.

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.

The 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.

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).

In 2015, the CRA acquired, and currently owns, approximately 157 gross acres of real property in the City of Carson, which Site consists of a former landfill property. The 157 Acre Site is divided into five (5) cells sometimes referenced 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.

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**").

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.

The CRA and 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.

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.

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:

- 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.)
- 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.
- 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.
- 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.

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.

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.

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.

Separately, pursuant to that certain Option Agreement and Joint Escrow Instructions, dated as of December 17, 2020, between the 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.

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**”).

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.

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.

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.

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.

## Nature of the Subsidy

The City will directly transfer the amount of \$21,000,000 (the "Economic Development Benefit Contribution") to the CRA within ten (10) business days following the execution of this Agreement, and on or before March 15, 2024 the CRA will make a deposit into escrow to be used to fulfill its obligations and close escrow with CAM-Carson, LLC, which will proceed with the development of a retail mall on a 41-acre portion of property located on a property known as Cell 2 of the Former Cal Compact Landfill, 20400 S. Main Street, Carson, CA 90745 and currently owned by the CRA. The funds shall be used by CAM for its project, and such funds shall be drawn through an escrow process based on certain performance and completion of work on the site.

In addition, the City will also transfer \$5,000,000 to the CRA for other costs associated with the management of the project site and design, approval, and construction of infrastructure or other operating costs. The construction period for the whole project, including CAM's portion of the work and other CRA obligations, is approximately 30 months. Construction

and development of other portions of the site will take longer to complete but are not tied to this agreement.

This Agreement shall remain in effect through January 1, 2026, except with respect to any terms and provisions that expressly survive the termination or expiration of this Agreement.

## **V. FISCAL IMPACT**

The total amount of the Economic Development Benefit Contribution is \$26,000,000 and will be provided from the City's General Fund Reserve Balance.

The City is projected to receive an average of approximately \$5,000,000 in gross sales tax revenue per year, though a portion of the revenue has been pledged back to the project pursuant to a Cooperation Agreement between the City and Reclamation Authority.

## **VI. EXHIBITS**

1. Ordinance No. 23-2311 (pgs. 9-14)
2. Economic Development Benefit Agreement (pgs. 15-25)
3. Resolution No. 23-201 (Budget Resolution) (pgs. 26-28)
4. Public Hearing Notice (pgs. 29-31)

1.

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