



Legislation Details (With Text)

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| Title: | CONSIDER APPROVAL OF A LICENSE AGREEMENT BY AND BETWEEN THE CITY OF CARSON AND WIN CHEVROLET, INC. FOR TEMPORARY USE OF A PORTION OF 2403 E. 223RD STREET FOR AUTOMOBILE STORAGE (CITY COUNCIL) | | | | |
| Sponsors: | | | | | |
| Indexes: | | | | | |
| Code sections: | | | | | |
| Attachments: | 1. Exhibit No. 1 - WIN Chevrolet License Agreement_2403 E. 223 Street_11.05.19 | | | | |

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

Tuesday, November 05, 2019

Consent

SUBJECT:

CONSIDER APPROVAL OF A LICENSE AGREEMENT BY AND BETWEEN THE CITY OF CARSON AND WIN CHEVROLET, INC. FOR TEMPORARY USE OF A PORTION OF 2403 E. 223RD STREET FOR AUTOMOBILE STORAGE (CITY COUNCIL)

I. SUMMARY

The proposed License Agreement would allow WIN Chevrolet, Inc. (WIN) to store its automobile inventory for 120-days in a portion of City-owned property located at 2403 E. 223rd Street (Property), (Exhibit No. 1). The City Manager would also be authorized to grant additional extensions from time to time. Pursuant to the Agreement, WIN would have to vacate the property with a 30-day notice from the City. Failure to surrender the property in a timely manner will result in Default of the Agreement, which includes a penalty of \$5,000 per day. WIN previously occupied the Property between October 2015 and July 2018 under a separate lease agreement with the City. However, the City required WIN to move in anticipation of entering into a Purchase and Sales Agreement (PSA) with a buyer. The PSA did not include provisions for WIN to keep its cars on the property. Since then, the former buyer has defaulted on the terms of the PSA with litigation pending on this case.

Currently, WIN is storing its automobile inventory on a nearby parcel to the south, at 2254 E. 223rd Street (Former Agency Property), currently owned by Panattoni Development Company (Panattoni). In June 2019, the Carson Successor Agency sold the former

Agency Property to Panattoni. In September, 2019, Panattoni provided a 30-day notice to WIN to vacate the site to initiate the development of the site as a parking lot. However, since then, Panattoni has provided one last extension to WIN's lease until November 5th. Pursuant to a Settlement Agreement, Panattoni is required to start the construction of the site as a parking lot as soon as possible to meet its obligations under the Settlement Agreement.

With the Property in litigation and WIN's immediate need for a place to store their automobile inventory, staff is recommending approval of the proposed License Agreement. With the exception of the Default Provision, the terms of the proposed License Agreement are similar to the Carson Successor Agency License Agreement terms approved by the Successor Agency Board in July 2018 for the former Agency Property to the south, and the previous City agreement with WIN from 2015. There are three differences between the previous Agreements and the proposed Agreement: (1) A penalty of \$5,000 per day for defaulting on the terms of the License Agreement, (2) Shorten termination notice period from 90 days to 30 days, and (3) A reservation clause to allow for the City to conduct environmental studies while WIN occupies the Property.

II. RECOMMENDATION

1. APPROVE the License Agreement between the City and WIN Chevrolet, Inc. for temporary access to the property located at 2403 E. 223rd Street.
2. AUTHORIZE the Mayor to execute the License Agreement following approval as to form by City Attorney.

III. ALTERNATIVES

TAKE any other action(s) the City Council deems appropriate.

IV. BACKGROUND

As depicted below, WIN currently operates its dealership at 2201 E. 223rd Street (in yellow) and stores its excess automobile inventory at the Former Agency Property (in green). WIN is proposing to move its storage operations to the proposed Licensed Area (in purple) on the Property (in red). The City and WIN have previously entered to a lease agreement, dated October 7, 2015, for the use of same proposed license area portion of the Property.



The City originally acquired the 3.5 acre Property from the Carson Successor Agency in January 2015. On December 19, 2017, the City adopted Resolution No. 17-172 at a public hearing to approve the sale of the Property to Carcom Center, LLC (Carcom). Subsequently, the City and Carcom entered the PSA on August 27, 2018. Carcom defaulted on the terms of the PSA and the City terminated the PSA and initiated litigation.

On March 14, 2018, in anticipation of the sale, the City provided WIN a Notice of Termination, which provided the required 90-day notice for WIN to vacate the Property. The termination was required in order for the due diligence to occur in the sale of the Property to Carcom. Specifically, the automobiles had to be removed to allow the buyer to conduct soil testing.

Around the same time, the Carson Successor Agency provided the WIN access to the Former Agency Property via a License Agreement, effective July 2018. The Former Agency Property was in a prolonged escrow due to litigation by the adjacent property owner, which provided WIN the opportunity to temporarily use the site. The Former Agency Property case settled in April 2019 and escrow closed two months later, in June 2019. As of September 2019, the current owner, Panattoni Development Company, has provided WIN notice to vacate the former Agency Property. However, Panattoni has provided one last extension to November 5th.

While the Property is in litigation, the proposed License Agreement would provide WIN the ability to temporarily store its automotive inventory. The licensed area would be limited to the areas described depicted under Exhibit B of the License Agreement. This area is the same area leased by WIN from October 2015 to summer 2018. As noted, the three notable new provisions are added to the License Agreement including: (1) A penalty of \$5,000 per day for defaulting on the terms of the License Agreement, (2) Shorten termination notice period from 90 days to 30 days, and (3) A reservation clause to allow for the City to conduct environmental studies while WIN occupies the Property. In the

meantime, WIN will continue to seek another longer-term solution for the storage of its inventory.

V. FISCAL IMPACT

The City will receive approximately \$16,804 over the 120-day License term, and \$4,201 for every month of extension(s) granted. Revenues collected will be deposited to the City's General Fund Account Number (Lease Agreements): 101-99-999-999-4400.

VI. EXHIBIT

1. License Agreement for 2403 E. 223rd Street (pgs. 4-15)

Prepared by: James Nguyen, Project Manager