



# CITY OF CARSON

## Legislation Text

File #: 2022-236, Version: 1

## Report to Mayor and City Council

Tuesday, April 05, 2022

Discussion

### SUBJECT:

**CONSIDER RESOLUTION NO. 22-051 APPROVING THE PURCHASE AND SALE AGREEMENT FOR REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS FOR SALE OF PROPERTY OWNED BY THE CITY OF CARSON LOCATED AT 2403 E. 223RD STREET (APN: 7315-012-900, 7315-012-804) FROM THE CITY OF CARSON TO WIN CHEVROLET, INC AND MAKING FINDINGS RELATED TO THE PROPOSED SALE (CITY COUNCIL)**

### I. SUMMARY

This matter relates to the City's potential disposition of 4.16 gross acres or a net 3.15 acres (137,285 sq. ft. after easements) of City-owned undeveloped real property located at 2403 E. 223rd Street (APN: 7315-012-900, 7315-012-804) ("Property") as visually depicted under Vicinity Map (Exhibit No. 1). The Property is located south of Interstate 405 (I-405), west of the Alameda Corridor (rail corridor), and north of East 223rd Street. Under the proposed Purchase and Sale Agreement ("PSA") (Exhibit No. 2), the City would sell the Property to WIN Chevrolet, Inc. ("WIN") for \$8,000,000. WIN currently leases a portion of the Property from the City for storage of automobile inventory to support its nearby car dealerships and intends to purchase and use the Property for the same purpose.

The City's charter requires the Planning Commission and City Council determine that the sale of the Property is consistent with the City's General Plan. Additionally, pursuant to California Government Code Section 37350, the City is also able to dispose real property for the common benefit of the community, and to ensure compliance, certain findings should be made by the City's legislative body. The findings of General Plan consistency and common benefit requirements are incorporated under the Resolution No. 22-051 (Exhibit No. 3) for Council's consideration and adoption. On February 22, the Planning Commission approved PC Resolution No. 22-2824 (Exhibit No. 4) making similar required findings to dispose the Property.

### II. RECOMMENDATION

1. **WAIVE** further reading and **ADOPT** Resolution No. 22-051 by two-thirds affirmative vote of the City Council “A RESOLUTION OF THE CITY OF CARSON, CALIFORNIA, APPROVING THE PURCHASE AND SALE AGREEMENT FOR REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS FOR SALE OF PROPERTY OWNED BY THE CITY OF CARSON LOCATED AT E. 223RD STREET (APN: 7315-012-900, 7315-012-804) FROM THE CITY OF CARSON TO WIN CHEVROLET, INC. AND MAKING FINDINGS RELATED TO THE PROPOSED SALE.”

### **III. ALTERNATIVES**

Take another action deemed appropriate by the City Council.

### **IV. BACKGROUND**

Portions of the Property are currently leased to two (2) parties: (1) WIN Chevrolet, Inc. (“WIN”), and (2) the State of California Department of Transportation (“Caltrans”). WIN is currently using its portion of the Property for vehicle storage to support its nearby car dealership site. Caltrans is using its portion of the Property to store construction equipment in connection with its Dolores Yard Overhead Bridge retrofitting project, which is adjacent to the Property.

Under the PSA, the City would sell the Property to WIN for \$8,000,000. WIN will have forty-five (45) days from the Opening of Escrow to conduct any due diligence required prior to closing of escrow. The escrow will be opened with an initial deposit of \$1,000,000. If WIN does not terminate the PSA during the due diligence period, WIN is required to deposit another \$1,000,000 to escrow at the end of the due diligence period. Escrow is required to close not later than 30 days from the end of the due diligence period.

WIN takes the Property subject to the Caltrans easement (“Caltrans Easement”) until its expiration date of February 18, 2024 (“Caltrans Expiration Date”). As Caltrans previously paid the full consideration rent amount of \$651,342 (“Caltrans Payment”) to City for the temporary taking period of 28 months, the Caltrans Payment will be prorated to the close of escrow. For example, if the escrow closing date is June 19, 2022, the City will keep 8 months of Caltrans Payment or \$186,097.68 (8 months X \$23,262.21 per month) and WIN will be entitled to a credit for the 20 remaining months or \$465,244.20 (21 months x \$23,262.21 per month). A copy of the Caltrans Easement was previously provided to WIN and is attached as Exhibit No. 5.

#### **Paving and Additional Required Improvements**

*Paving:* Not less than three (3) months after the closing, WIN is required, at its sole cost and expense, to make improvements (e.g., paving) to the Property and control runoff through infiltration, bioretention, and/or rainfall harvest use in accordance with the Los Angeles County Low Impact Development requirements.

*Additional Required Improvements:* WIN is also required, at its sole cost and expense, to construct lighting, fencing, and landscaping on the Property. Not less than three (3) months

prior to the termination of the Caltrans Easement, WIN is required to obtain all approvals and permits for the installation of lighting, fencing, and landscaping on the Property ("Additional Required Improvements"). WIN is required to start construction of the Additional Required Improvements not less than three (3) months after the termination of the Caltrans Easement and is required to diligently prosecute such work to completion not less than six (6) months after commencement of the construction.

### Property Disposition History

In October of 2014, the City acquired the Property for the purpose of reselling it for development of tax generating uses. The gross area of the parcel is 181,245 square feet, but it is encumbered by easements (rail, slope, and billboard), of which only 5% of the easements have value. The City acquired the parcel from the Successor Agency by Quitclaim Deed at the appraised value of \$3.5 million (\$25.00/sq. ft. x 137,245 sq. ft. = \$3,431,125, rounded to \$3.5 million.)

On December 19, 2017, the City adopted Resolution No. 17-172 at a public hearing and approved the sale of the Property to Carcom Center, LLC ("Carcom"). On August 27, 2018, the City and Carcom entered into a purchase and sale agreement ("Carcom PSA"). Shortly thereafter, the City and California Processing Company, LLC (related to Carcom) entered into a Development Agreement to develop the Property for cannabis operations. Carcom defaulted on the terms of the Carcom PSA and the Development Agreement. The City terminated both the Carcom PSA and the Development Agreement and initiated litigation. On September 15, 2020, the City entered into a Settlement Agreement with Carcom terminating both the Carcom PSA and the Development Agreement.

With the litigation settled, the disposition of the Property was subject to the newly enacted changes to the Surplus Land Act under Assembly Bill 1486 ("SLA"). Effective January 1, 2020, the Act provided required steps for any local agencies including the City to take when disposing the surplus properties to promote affordable housing development on unused or underutilized public land.

Accordingly, on February 16, 2021, the City Council adopted Resolution No. 21-010 to declare the Property as "*non-exempt surplus land*." In accordance with the SLA, the City subsequently provided a Notice of Availability for the Property which was delivered to the priority entities specified by the SLA including affordable housing developers. Given that the Property is in a highly industrial area, surrounded by freeways, railroads, and oil refineries, no agreements were reached.

On September 8, 2022, the State of California Department of Housing and Community Development ("HCD") issued a letter to the City setting forth HCD's determination that the City has met all the requirements under the SLA for the purposes of disposing the Property and that the City is permitted to proceed with the sale of the Property in accordance with its standard procedures. Accordingly, in accordance with the Listing Agreement with Newmark Knight Grubb Frank (Christopher Beck), the Property was subsequently solicited to private parties.

## General Plan Consistency and Government Code Sections 37350

On Tuesday, February 15, 2022, the City Council tentatively selected the offer submitted by WIN for a purchase price of \$8,000,000. Shortly after, on February 22, 2022, the City's Planning Commission adopted PC Resolution No. 22-2824 making findings of General Plan consistency to dispose of the Property. The City Council will need to take the same step to dispose of the Property. This step is required under the City's Charter Section 319D which states the following:

*"No real property of City shall be sold, transferred or conveyed without a finding by the Planning Commission and City Council as to the consistency of the sale with the general plan. Moreover, real property valued at more than two million five hundred thousand dollars (\$2,500,000), may not be sold, transferred or conveyed except when approved by ordinance or resolution passed by a two-thirds affirmative vote of the city council."*

In addition to the City's Charter, California Government Code Section 37350 provides that "a city may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of it for the common benefit," and Government Code Section 37351 provides that the legislative body of a city may dispose of and convey real property for the benefit of the City.

Provided the requirements of Charter Section 319(D) and Government Code Sections 37350-37351 are met, including that the City Council make findings as to consistency of a proposed sale with the General Plan, the City can dispose of its real property as it deems fit.

### General Plan Consistency Analysis

The proposed sale to WIN is consistent with the General Plan of the City of Carson. The Property has a General Plan Land Use designation of Regional Commercial. The proposed sale agreement does not mandate a specific or particular use of the Property by WIN following the sale. However, WIN currently licenses use of a portion of the Property from the City for the purpose of storing vehicles from its nearby dealership. This use is consistent with the current General Plan land use designation for the Property. Based on the current use and the fact that WIN is a car dealership business, it is reasonable to expect that WIN will continue to use the Property for the same or related purposes or activities after the sale. Accordingly, the City has required that WIN must pave, landscape, fence, and light the Property. WIN's ability to make significant improvements (such as construction of a new dealership building) on the Property will be limited for a short time due to the presence of the Caltrans easement on the Property.

Any use of the Property by WIN or any other transferee following the sale will be subject to consistency with the General Plan and compliance with the City's Zoning Ordinance and Municipal Code, like all land uses in the City. The proposed sale will not create any conflict or inconsistency with any provision of the General Plan. Instead, the proposed sale will help further the General Plan goals of maintaining and increasing net fiscal gains to the City to strengthen existing City services and support systems. Additionally, the proceeds from the sale would help fund new City services and promote economic development of

the Property and the surrounding area.

#### Government Code Section 37350-37351 Analysis

The proposed sale will serve the common benefit and the benefit of the City. As declared by Resolution No 21-010, the Property is not necessary for public use and has been approved for disposition by HCD based on the City having met all requirements of the SLA. Additionally, the sale to WIN will generate significant revenue to the City's general fund that would be used to fund City services, programs and activities that are provided for the benefit of the City's residents. The sale of the Property may also promote or facilitate greater economic development of the Property and the surrounding area.

The proposed resolution (Exhibit 3) contains affirmative findings as to each of the foregoing criteria.

### **V. FISCAL IMPACT**

The sale price under the PSA is \$8,000,000. The estimated closing costs including broker's fee is \$185,000 leaving a balance of approximately \$7,815,000. However, since the City already received the full rent amount of \$651,342 for 28 months from Caltrans, assuming a closing date of June 19, 2022, the prorated rent amount of approximately \$465,000 will be deducted through escrow leaving a net proceed of approximately \$7,350,000 to the City at the close of escrow. The exact amount will depend on the exact closing costs and the closing date for determining the exact amount of prorated rent payable to WIN.

Sales proceed will go to the City's General Fund unless the City Council directs staff to use the proceeds for future economic development purposes as approved by the City Council at a future date.

### **VI. EXHIBITS**

1. Vicinity Map (pg. 6)
2. Proposed Purchase and Sale Agreement (pgs. 7-37)
3. Resolution No. 22-051 (pgs.38-43)
4. Planning Commission Resolution No. 22-2824 (pgs.44-46)
5. Caltrans Easement Agreement (pgs. 47-55)

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