



County of Fresno

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Fresno, California
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Legislation Details (With Text)

File #: 19-0731

On agenda: 7/9/2019

Final action: 7/9/2019

Enactment date:

Enactment #: Agreement No. 19-332, Resolution No. 19-282

Title: Approve the purchase by the County of the real property located at 190 and 192 South West Avenue, Fresno, CA 93706 (APNs 458-270-15 and 458-060-61), which is approximately 122,839 square feet of vacant light industrial real property ("Property"), from Seller, Horizon Enterprises, LP, for the purchase price of \$460,000, plus \$35,000 estimated closing costs; Approve and authorize the Chairman to execute, a Sale and Purchase Agreement and Escrow Instructions ("Purchase Agreement") for the County's purchase of the Property; Authorize staff to undertake additional due diligence investigations, if needed, including any further environmental studies and appraisals of the Property, as deemed necessary or appropriate by staff, in connection with the County's purchase of the Property; Authorize and direct the Director of Internal Service/Chief Information Officer (Director of ISD/CIO), or his designee, to take any and all actions he deems necessary or appropriate, and in the best interest of the County, all of which shall be consistent with the Purchase Agreement and the foregoing Board approvals and actions, to: a. Open, carry out, and close escrow for the County's purchase of the Property from Seller, deliver the County's \$46,000 deposit, deliver the County's acceptance of Seller's Grant Deed at closing, and obtain title insurance in favor of the County for the Property in the amount of the purchase price of the Property; b. Review, approve, execute and/or deliver any agreements (not including the Purchase agreement), documents, certificates, notices, and instruments, and any amendments to any of the foregoing (all of which shall be subject to prior review and approval thereof as to legal form by County Counsel, and, if applicable, as to accounting form by the County Auditor-Controller/ Treasurer-Tax Collector), and take any other actions to initiate, carry out, and finalize the County's purchase of the Property from the Seller; and c. Perform any other obligations, or exercise any other rights, of County under the Purchase Agreement, or such other agreements, or documents, certificates, notices, or instruments, to finalize the County's purchase of the Property; Direct staff to initiate and pursue environmental review and the County land use entitlement process for the Property as the preferred site for a new animal control location, or other potential use by the County, promptly following the close of the sale of the Property, all pursuant to the California Environmental Quality Act (CEQA); Adopt Budget Resolution increasing FY 2019-20 appropriations for the Capital Projects Fund 0400, Subclass 10055, Animal Control Facility Org 8855, in the amount of \$495,000, for the Property purchase (4/5 vote)

Attachments: 1. Agenda Item, 2. Agreement A-19-332 with Horizon Enterprises, 3. Resolution No. 19-282, 4. Additional Information

Date	Ver.	Action By	Action	Result
7/9/2019	1	Board of Supervisors	Approved (Consent Agenda)	Pass

DATE: July 9, 2019

TO: Board of Supervisors

SUBMITTED BY: Robert W. Bash, Director, Internal Services/Chief Information Officer
David Pomaville, Director, Department of Public Health
Steven E. White, Director, Department of Public Works & Planning

SUBJECT: County Purchase of Real Property at South West Avenue and West Dan Ronquillo Drive

RECOMMENDED ACTION(S):

1. **Approve the purchase by the County of the real property located at 190 and 192 South West Avenue, Fresno, CA 93706 (APNs 458-270-15 and 458-060-61), which is approximately 122,839 square feet of vacant light industrial real property (“Property”), from Seller, Horizon Enterprises, LP, for the purchase price of \$460,000, plus \$35,000 estimated closing costs.**
2. **Approve and authorize the Chairman to execute, a Sale and Purchase Agreement and Escrow Instructions (“Purchase Agreement”) for the County’s purchase of the Property.**
3. **Authorize staff to undertake additional due diligence investigations, if needed, including any further environmental studies and appraisals of the Property, as deemed necessary or appropriate by staff, in connection with the County’s purchase of the Property.**
4. **Authorize and direct the Director of Internal Service/Chief Information Officer (Director of ISD/CIO), or his designee, to take any and all actions he deems necessary or appropriate, and in the best interest of the County, all of which shall be consistent with the Purchase Agreement and the foregoing Board approvals and actions, to:**
 - a. **Open, carry out, and close escrow for the County’s purchase of the Property from Seller, deliver the County’s \$46,000 deposit, deliver the County’s acceptance of Seller’s Grant Deed at closing, and obtain title insurance in favor of the County for the Property in the amount of the purchase price of the Property;**
 - b. **Review, approve, execute and/or deliver any agreements (not including the Purchase agreement), documents, certificates, notices, and instruments, and any amendments to any of the foregoing (all of which shall be subject to prior review and approval thereof as to legal form by County Counsel, and, if applicable, as to accounting form by the County Auditor-Controller/Treasurer-Tax Collector), and take any other actions to initiate, carry out, and finalize the County’s purchase of the Property from the Seller; and**
 - c. **Perform any other obligations, or exercise any other rights, of County under the Purchase Agreement, or such other agreements, or documents, certificates, notices, or instruments, to finalize the County’s purchase of the Property.**
5. **Direct staff to initiate and pursue environmental review and the County land use entitlement process for the Property as the preferred site for a new animal control location, or other potential use by the County, promptly following the close of the sale of the Property, all pursuant to the California Environmental Quality Act (CEQA).**
6. **Adopt Budget Resolution increasing FY 2019-20 appropriations for the Capital Projects Fund 0400, Subclass 10055, Animal Control Facility Org 8855, in the amount of \$495,000, for the Property purchase (4/5 vote).**

Approval of the Recommended Actions will authorize the County’s acquisition of the Property at 190 and 192 South West Avenue, Fresno, CA 93706 for the sum of \$460,000, for use by the County as a new animal control facility location, or other potential use by the County. If the County purchases the Property, any such potential use of the Property would be subject to the full environmental review under CEQA and the County’s land use approval process.

ALTERNATIVE ACTION(S):

Your Board may decline to approve the recommended actions in this item, and direct the Department of Public Health and the Internal Services Department (ISD) to continue to pursue other real property purchase opportunities. Failure to approve the recommended actions, however, would result in a lost opportunity to acquire a property that may satisfy County needs.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. This project has been planned for several years, and revenues have been set aside in the Capital Projects Fund 0400, Animal Control Facility Org 8855, for this purchase. Approval of Recommended Action No. 6 will provide spending authority in the amount of \$495,000 to facilitate the purchase of the Property. The balance of revenues for this project will be used to construct the actual facility.

If, after undertaking the land use and environmental process, the County cannot use the site for a new animal control facility, the County would need to replace the funds spent from the Animal Control Facility Capital Projects Fund for purchase price and closing costs with other available County funds, and pursue other options, including an alternate use, for the Property.

DISCUSSION:

The County is mandated by state law to provide animal control services throughout the unincorporated areas of the County. Prior to 2014, these services were performed through an agreement with the Central California Society for the Prevention of Cruelty to Animals (CCSPCA) at its facility. When CCSPCA canceled its agreement with the County, a temporary shelter was constructed at the County's old morgue location on Nielsen Avenue. However, this facility was inadequate when it was constructed, and this facility continues to be inadequate, as well as costly to maintain.

The purchase of this real property will enable the County to build a cost-effective animal shelter in an area with the proper zoning, which will have limited impact on its neighbors. This property is centrally located, and large enough to accommodate the construction of an adequate facility that will serve the County for many years to come.

The Recommended Purchase Agreement:

Your Board's approval of the recommended Purchase Agreement, including related recommended actions (1-6, above), will allow the County's acquisition of the vacant light industrial lots located at 190 and 192 South West Avenue, Fresno, CA 93706, totaling 122,839 square feet. The preliminary outline of a potential new County use of the Property would include:

- Animal control facility consisting of approximately 10,000 square feet
- Intake center to receive animals
- Kennels to house the animals
- Quarantine area for the sick animals
- Separate area to house the larger animals
- Play area for the dogs
- Laundry room
- Locker room for staff equipped with showers
- Kitchen for food preparation
- Covered sally port for animal control officers to drop off the animals
- Parking lot for staff and the public

The recommended Purchase Agreement is not contingent on any type of County use of the Property following the County's purchase.

Staff will return to your Board following environmental review to request project-specific appropriations once the scope and estimates for the projects are fully developed.

Environmental Review:

Staff have identified the Property as the preferred site for the foregoing type of use of the Property. The County's acquisition of the Property is required before environmental review may be conducted on this preferred site for such potential use or other potential use by the County. The Department estimates it will take up to two years to conduct environmental review, develop, permit, design, and initiate operations for the proposed facility and use of the Property.

Generally, the City would have exclusive jurisdiction over zoning and land use approval within its territorial limits. However, cities and counties are mutually exempt from each other's zoning regulations relative to real property that one such entity may own within the territorial limits of the other. Assuming the County acquires the Property, the County would, pursuant to Section 865 of the Zoning Division of the County of Fresno, obtain exclusive jurisdiction over zoning and land use approval for any potential use the County may consider. Based on these jurisdictional limitations, the earliest feasible time for the County to commence review pursuant to the California Environmental Quality Act (CEQA) would be after the County's acquisition of the Property.

As soon as practicable following the close of sale on the Property, staff would, upon your Board's authorization in recommended action 5, above, proceed with the appropriate land use approval process and related environmental review pursuant to CEQA. This CEQA review shall consider any feasible mitigation measures and alternatives, including the "no project" alternative.

The proposed County purchase of the Property is exempt from CEQA review. CEQA Guidelines, sections 15050(c), (2)(3) and 15378 state where an action is not a "project" meaning the whole of an action which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment), that action is not subject to CEQA. The recommended actions do not result in a direct or indirect change in the environment, because nothing in the recommended Purchase Agreement commits or binds the County to any specific use of the Property. Pursuant to CEQA Guidelines, section 15004(b)(2)(A), the County has designated the Property as a preferred site for the foregoing type of use and has conditioned any future use of the Property on compliance with CEQA. Therefore, for purposes of this item, the proposed County acquisition is not considered the approval of a project under CEQA, and is exempt from CEQA review. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c)(2)(3); 15378(a).)

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Sale and Purchase Agreement and Escrow Instructions
On file with Clerk - Budget Resolution

CAO ANALYST:

Yussel Zalapa