



CITY OF POMONA COUNCIL REPORT

September 11, 2023

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Kirk Pelser, Deputy City Manager

**SUBJECT: TERMINATION OF PURCHASE & SALE AGREEMENT WITH
SEVENTH STREET DEVELOPMENT, INC.**

RECOMMENDATION:

It is recommended that the City Council adopt the following Resolution (Attachment No. 1):

**RESOLUTION NO. 2023-154 - A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF POMONA, CALIFORNIA, TERMINATING THE PURCHASE &
SALE AGREEMENT BETWEEN THE CITY OF POMONA AND SEVENTH
STREET DEVELOPMENT, INC.**

EXECUTIVE SUMMARY:

On October 7, 2019, the City entered into a Purchase & Sale Agreement (“PSA”) with Seventh Street Development, Inc. (“Developer”) for the sale of the approximately 13.95 acre property northwest of the intersection of Mission Avenue and the 71 Freeway in the City of Pomona commonly known as Veteran’s Park (the “Site”). The subject Site was conveyed from the Federal Government to the City via a quitclaim deed in March 2000. That deed incorporated certain restrictions that 1) require the Site to be used in perpetuity for public recreational uses and 2) require approval of the Secretary of the Interior to sell, lease or otherwise dispose of the Site. The proposed sale to the Developer was contingent on the City being able to successfully secure consent of the Secretary of the Interior to sell the property and transfer the deed restrictions to other City owned sites. Despite years of efforts, the City has not been able to gain the consent of the Secretary of the Interior and the PSA may now be terminated as a result.

FISCAL IMPACT: Terminating the PSA will not result in a direct fiscal impact, since the PSA contemplates that, under the circumstances here, the transaction is prohibited from proceeding and neither party is entitled to damages against the other.

PREVIOUS RELATED ACTION:

On October 7, 2019, the City Council approved the PSA.

DISCUSSION:

On October 7, 2019, the City entered into a Purchase & Sale Agreement (“PSA”) with Seventh Street Development, Inc. (“Developer”) for the sale of the approximately 13.95 acre property northwest of the intersection of Mission Avenue and the 71 Freeway in the City of Pomona commonly known as Veteran’s Park (the “Site”). The subject Site was conveyed from the Federal Government to the City via a quitclaim deed in March 2000. That deed incorporated certain restrictions that 1) require the Site to be used in perpetuity for public recreational uses and 2) require approval of the Secretary of the Interior to sell, lease or otherwise dispose of the Site. The proposed sale to the Developer was contingent on the City being able to successfully secure consent of the Secretary of the Interior to sell the property and transfer the deed restrictions to other City owned sites.

The City and Developer have put forth considerable efforts over the past five plus years to craft a strategy to allow for sale and development of the site and relocation of the Federal deed restriction. Gaining the approvals of the Federal Dept. of Interior was always the primary contingency to the proposed transaction and close of escrow. Ultimately, the Dept. of Interior rejected the City’s proposals for relocating the deed restrictions to other City owned properties. Without the removal of the contingency the City is legally prohibited from selling the land.

After receiving the Dept. of Interior rejection in June of 2022, staff engaged in a series of discussions with the Developer about possible alternative scenarios to pay the Federal Government through the General Services Administration (GSA) fair market value for the land and have the deed restriction abrogated. It is important to note that the discussions held after the DOI rejection were not contemplated by the PSA and the City was not obligated to consider alternatives after the DOI rejected the initial proposal.

Based upon the inability to clear the deed restriction there is no way to proceed with the transaction under the PSA. The purpose of the PSA has been frustrated by the City and Developer’s inability to clear the condition set forth in the PSA for the transaction to proceed. As such, the City is terminating the transaction with the intent to eventually improve the park facilities and operate the site as a park indefinitely

Prepared by:

Kirk Pelser
Deputy City Manager

ATTACHMENTS:

Attachment No. 1 - Resolution No. 2023-154