



REPORT TO COUNCIL City of Sacramento

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915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Consent
October 19, 2010

Honorable Mayor and
Members of the City Council

Title: Third Amendment to Ground Lease with Rapton Investment Group LLC

Location/Council District: District 2 (Business 80 at Fulton Avenue)

Recommendation: Adopt a **resolution** that (A) supersedes Resolution No. 2010-533 (adopted on September 7) and authorizes the City Manager or his designee to negotiate and sign a third amendment to the City's ground lease with Rapton Investment Group LLC ("Rapton"), by which Rapton will relinquish its leasehold on the ± 8.62 acres designated in the lease as Area 2, except for ± 0.14 acres in the southeast corner; and (B) grants Rapton a combined right of first refusal and option to purchase the eastern ± 3.36 acres of Area 2, including the ± 0.14 acres in the southeast corner.

Contact: Diana Sasser, Project Manager, 808-5519

Presenters: Not applicable

Department: Economic Development

Division: Citywide

Organization No: 18001031

Description/Analysis

Issue: The City currently leases approximately 17.63 acres to Rapton under a ground lease dated June 5, 2007. The leased property, located on the north side of Business 80 at Fulton Avenue (the former site of the Sacramento Trapshooting Club), is divided by the lease into Area 1 (± 9.01 acres) and Area 2 (± 8.62 acres). Rapton is current on all lease payments.

On March 9, 2010, the City Council, in Closed Session, directed staff to negotiate with Chrysler toward the purchase of a ± 5.119 -acre portion of Area 2 in the southwest portion of the leased property.

On May 8, 2010, the City Council approved a lease with Clear Channel Outdoor, Inc. ("CCO") that authorizes CCO to construct and operate a digital billboard on a site in Area 2. To facilitate the City's lease with CCO and CCO's construction of the billboard, Rapton agreed to relinquish its leasehold on a ± 0.14 -acre portion of Area 2 in the southeast portion of the leased property. To that end, on September 7, 2010, the City Council adopted Resolution No. 2010-533, which authorized the City Manager to negotiate and sign a third amendment to Rapton's ground lease that would (1) remove CCO's billboard site from the lease and (2) decrease Rapton's rent by \$450 in return.

Also on September 7, 2010, the City Council formalized the negotiations with Chrysler by authorizing the City Manager to enter into an Exclusive Right to Negotiate ("ERN") with Chrysler on the ± 5.119 -acre portion of Area 2.

Subsequent to September 7, Rapton expressed interest in acquiring from the City the portion of Area 2 that is not subject to the ERN or CCO's digital billboard. Rapton thus has offered to relinquish its leasehold, effective October 1, 2010, on all of Area 2 except for the 0.14-acre site in the southeast corner, which Rapton needs for a monument sign. In return, Rapton asks that the City grant the following:

- (1) Both a right of first refusal and an option to purchase, at fair-market value, the eastern portion of Area 2 (± 3.36 acres, i.e., the ± 3.36 acres not subject to the ERN less the ± 0.14 acre site of CCO's digital billboard but including the ± 0.14 acre site for a monument sign).
- (2) A pro-rata reduction of monthly rent to reflect the reduced area of the leasehold, i.e., a reduction of \$26,124.86 a month, plus an additional rent reduction of \$3,188.97 a month to compensate Rapton for the lost opportunity to sublease Area 2 in accordance with the lease. After both reductions are taken into account, Rapton's monthly rent for the 9.15 acres (9.01 acres + 0.14 acre) that will remain under lease will be \$25,000.

Because of Rapton's proposal to relinquish its leasehold as to Area 2, the third amendment authorized by Resolution No. 2010-533 *has not been signed*. Accordingly, staff requests that the City Council adopt a resolution that supersedes Resolution No. 2010-533 and authorizes the City Manager to negotiate and sign the following:

- A third amendment to Rapton's ground lease, which will be effective October 1, 2010. The third amendment will remove all of Area 2 from the lease except the

0.14 acre in the southeast corner, and will reduce Rapton's monthly rent from \$54,313.83 to \$25,000.00.

- An agreement granting Rapton both a right of first refusal and an option to purchase (at fair-market value) the portion of Area 2 not covered by the ERN or the site of CCO's digital billboard.

Policy Considerations: This project is consistent with direction given by the City Council to find a compatible and productive use for the property. Section 3.68.120 of the Sacramento City Code provides that the City Council "may by resolution approve the amendment of any lease." Section 3.88.090 of the Sacramento City Code provides that the City Council may, by resolution, provide for the sale of real property without first calling for bids . . . [w]hen it finds that such action will be in the best interest of the city."

California Environmental Quality Act (CEQA): Approving the requested third amendment to Rapton's ground lease will not, by itself, cause a significant change in the environment. It merely adjusts Rapton's leasehold and financial obligations.

Sustainability Considerations: This report does not address any sustainability issues.

Commission/Committee Action: None

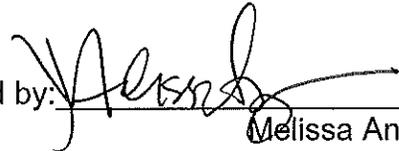
Rationale for Recommendation: Removing Area 2 from the ground lease will clear the way for sale to Chrysler of the ±5.119 acres covered by the ERN.

Financial Considerations: If the resolution is approved, then the rent Rapton pays to the City under the ground lease will be decreased to reflect the removal of ±8.48 acres from the leased property and to compensate Rapton for the lost opportunity to sublease Area 2. Although the adjusted rent will not cover all of the debt service for the loan of CRCIP bond proceeds that financed remediation of the property after the Sacramento Trapshooting Club left, revenues from the CCO digital billboard and from the sale of the ±5.119 acres to Chrysler will make up the shortfall.

Emerging Small Business Development (ESBD): There are no emerging small business development impacts from this report.

October 19, 2010

Respectfully Submitted by:



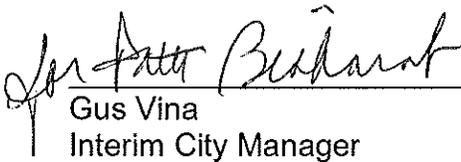
Melissa Anguiano
Citywide Development Manager

Approved by:



James R. Rinehart
Economic Development Director

Recommendation Approved:



Gus Vina
Interim City Manager

APPROVED AS TO FORM:



CITY ATTORNEY

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RESOLUTION NO.

Adopted by the Sacramento City Council



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**APPROVING THIRD AMENDMENT TO GROUND LEASE WITH RAPTON
INVESTMENT GROUP LLC**

BACKGROUND

- A. Under City Agreement No. 2007-0555 (a ground lease dated June 5, 2007), the City leases approximately 17.63 acres of City-owned property to Rapton Investment Group LLC ("Rapton"). The north half of the property (± 9.01 acres) is designated in the lease as Area 1 and is the site of Rapton's Honda dealership. The south half of the property (± 8.62 acres) is designated in the lease as Area 2 and is currently vacant.
- B. The City and Rapton have amended City Agreement No. 2007-0555 twice. The first amendment, City Agreement No. 2007-0555-1, clarified various provisions in the ground lease. The second amendment, City Agreement No. 2007-0555-2, granted Rapton a temporary, one-year reduction in rent so that Rapton could cope with the steep decline in revenues caused by the severe financial and economic crisis that has beset the nation since late 2008.
- C. On May 8, 2010, the City Council approved a lease with Clear Channel Outdoor, Inc. ("CCO"). Under this lease, the City leases to CCO a portion of Area 2, which CCO will use to construct and operate a digital billboard. CCO also agrees in the lease to make the digital billboard available to Rapton, at no cost, for the display of Rapton's advertising messages.
- D. On September 7, 2010, the City Council approved an Exclusive Right to Negotiate ("ERN") with Chrysler Group Realty Company LLC ("Chrysler") for the purchase of ± 5.119 acres in Area 2.
- E. To facilitate the City's lease to CCO and the City's proposed sale of the ± 5.119 acres to Chrysler, Rapton is willing to relinquish its leasehold on all of Area 2, except for a 0.14-acre site Rapton needs for a sign, in return for the following: a right of first refusal and an option to purchase (at fair-market value) the portion of Area 2 not covered by CCO's digital billboard or subject to the ERN (± 3.36 acres); a pro-rata rent reduction to reflect the reduced acreage leased; and an additional rent reduction to compensate Rapton for the lost opportunity to sublease Area 2 in accordance with the lease.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. The facts set forth in the Background are correct.

Section 2. In accordance with section 3.68.120 of the Sacramento City Code, the City Manager (or his designee) is hereby authorized to negotiate with Raption and to sign, on the City's behalf, subject to approval as to form by the City Attorney's Office, a third amendment to City Agreement No. 2007-0555, as amended. The third amendment is to be effective October 1, 2010, and is to provide as follows:

- (a) Raption will relinquish its leasehold on the ±8.62 acres described in City Agreement No. 2007-0555 as Area 2, with the exception of a 0.14-acre site at the southeast corner of Area 2, which will remain under lease.
- (b) The City will decrease Raption's rent under City Agreement No. 2007-0555 from \$54,313.83 to \$25,000.00 to reflect the relinquishment of the ±8.48 acres and to compensate Raption for the lost opportunity to sublease Area 2 in accordance with the lease.

Section 3. In accordance with section 3.88.090 of the Sacramento City Code, the City Manager (or his designee) is hereby authorized to negotiate with Raption and to sign, on the City's behalf, subject to approval as to form by the City Attorney's Office, an agreement granting Raption a right of first refusal and option to purchase (at fair-market value) the portion of Area 2 that is not subject to the ERN or covered by CCO's digital billboard, i.e., ±3.36 acres, which is the ±3.36 acres not covered by the ERN less the ±0.14-acre site of CCO's billboard but including the ±0.14-acre site in the southeast corner. The City Council hereby finds that entering into such an agreement is in the best interest of the City.

Section 4. This resolution supersedes Resolution No. 2010-533, adopted on September 7, 2010, which the City Council hereby rescinds.