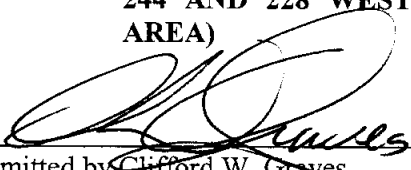




City of Carson Report to Redevelopment Agency

January 18, 2011
New Business Consent

SUBJECT: CONSIDER ENTERING INTO AN EXCLUSIVE NEGOTIATING AGREEMENT WITH BRIDGE HOUSING CORPORATION FOR THE PROPERTY LOCATED AT 244 AND 228 WEST CARSON STREET (CARSON CONSOLIDATED PROJECT AREA)


Submitted by Clifford W. Graves
Economic Development General Manager


Approved by Clifford W. Graves
Interim Executive Director

I. SUMMARY

Bridge Housing Corporation (Developer) desires to enter into an Exclusive Negotiating Agreement (ENA) (Exhibit No. 1) with the Carson Redevelopment Agency (Agency) to craft the terms of a disposition and development agreement (DDA) to purchase an approximately 1.58-acre property located at 244 and 228 West Carson Street (Site) (Exhibit No. 2) and develop a workforce residential project.

II. RECOMMENDATION

TAKE the following actions:

1. APPROVE the Exclusive Negotiating Agreement between the Carson Redevelopment Agency and Bridge Housing Corporation.
2. AUTHORIZE the Agency Chairman to execute the Exclusive Negotiating Agreement following approval as to form by Agency Counsel.

III. ALTERNATIVES

1. MODIFY and APPROVE the Exclusive Negotiating Agreement as the Agency Board may deem necessary.
2. TAKE another action the Agency Board deems appropriate.

IV. BACKGROUND

In November of 2010, the Developer approached Agency staff with a proposal to develop and operate a workforce residential project on the Site. The project will consist of the substantial rehabilitation of approximately 75 multi-family units with below grade parking and the possibility of ground floor retail space. This is to be a nine percent tax credit project with Agency financial assistance to fund the financial gap.

The proposed project is consistent with the city's mission to eliminate conditions of blight and to develop quality workforce housing, as illustrated in the Carson Redevelopment Agency's 5-Year Implementation Plan 2010-2014. Staff

recommends that the Agency Board enter into the ENA with Bridge Housing Corporation. The ENA would be for a period of 180 days, during which the terms of a DDA would be crafted.

V. FISCAL IMPACT

There will be no fiscal impact, other than budgeted staff and consultant time.

VI. EXHIBITS

- 1. Exclusive Negotiating Agreement. (pgs. 3-11)
- 2. Site Map. (pg. 12)

Prepared by: William N. Watkins, Redevelopment Project Analyst

TO:Rev122210

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Development Services
Economic Development Services	Public Services

Action taken by Redevelopment Agency

Date _____ Action _____

EXCLUSIVE NEGOTIATING AGREEMENT

This EXCLUSIVE NEGOTIATING AGREEMENT (this "Agreement") dated as of January 18, 2011 (the "Effective Date"), is made by and between the CARSON REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency"), and BRIDGE HOUSING CORPORATION-SOUTHERN CALIFORNIA, a nonprofit public benefit corporation and an affiliated entity of BRIDGE HOUSING CORPORATION, a nonprofit public benefit corporation (the "Developer"), with reference to the following facts.

RECITALS:

A. The subject of this Agreement is that certain real property consisting of approximately 1.58 acres of land in the City of Carson, County of Los Angeles, State of California, commonly known as 244 and 228 West Carson Street, Carson, California, and as more particularly described in Exhibit "A" attached hereto and incorporated by reference herein (the "Property").

B. The purpose of this Agreement is to effectuate the Redevelopment Plan for the Carson Consolidated Project Area (the "Project Area"), originally approved and adopted by the City Council of the City of Carson pursuant to Ordinance No. 10-1459, on October 5, 2010, as heretofore and hereafter amended (the "Redevelopment Plan"), in the City of Carson, California (the "City"), by facilitating improvements to real property within the Project Area.

C. The Developer acknowledges a primary objective of the Agency is development of residential workforce housing to serve the community.

D. The Agency and the Developer wish to negotiate with each other as to the terms and conditions of a disposition and development agreement ("DDA") that would result in the Developer acquiring the Property from the Agency, and covenanting to develop and operate an anticipated 9% Tax Credit project on the Property which may consist of the substantial rehabilitation of approximately 75 multi-family affordable residential units, with below grade parking and the possibility of a maximum of approximately 4000 square feet of ground floor retail space and all required onsite parking (the "Project"). The total development cost of the Project is estimated to be \$34 million. The Agency will provide approximately \$16 million of warranted assistance of which approximately \$6 million will be for land acquisition and tenant relocation during the rehabilitation. The Agency and the Developer acknowledge that the description of the Project, its size, cost and the Agency's participation as set forth in this recital are preliminary in nature and will be more fully set forth in the DDA. The Agency and the Developer believe it to be in the best interests of the Agency for the Project to be developed on the Property.

E. The Agency anticipates that following execution of this Agreement, the Agency and the Developer shall negotiate the terms of a DDA for the acquisition and redevelopment of the Property by Developer. Agency and Developer wish to conduct exclusive negotiations for a DDA.

F. The parties understand that a DDA is contingent upon the Agency's acquisition of the Property by negotiating its purchase from its current owner. The Developer will assist with these negotiations. The Agency will be responsible for the relocation of existing tenants prior to the sale of the Property to the Developer, pursuant to a DDA. The sale of the Property to the Developer is also contingent upon the Developer's award/receipt of 9% Tax Credits, Developer's entitlement of the Project, and Agency approval of proposed financing.

G. During the Exclusive Negotiating Period (as defined below), the staff, consultants and attorneys of the Agency and the City will devote substantial time and effort in reviewing plans, assembling and reviewing information and providing redevelopment planning and assistance to the Developer in connection with the proposed Project and in negotiating and preparing the DDA.

H. The Agency and the Developer desire to enter into this Agreement in order to facilitate the negotiation of the DDA and to set forth the rights and obligations of the parties during the Exclusive Negotiating Period.

NOW, THEREFORE, the parties hereto agree as follows:

1. EXCLUSIVE NEGOTIATING PERIOD. During the period from the Effective Date through the date that is one hundred eighty (180) days thereafter (the "Exclusive Negotiating Period"), Developer and the Agency shall negotiate with each other in good faith with respect to the creation of a DDA providing for the acquisition of the Property by Developer and the development of the Project.

2. OBLIGATIONS OF AGENCY. During the Exclusive Negotiating Period, the Agency shall have the following obligations:

a. the Agency, with assistance from the Developer, will negotiate with the current owner for the Agency's purchase of the Property;

b. the Agency shall not negotiate, discuss nor otherwise communicate with any other person or entity, other than the Developer, regarding the lease, transfer, sale, or other disposition of the Property or the development of the Project, except for entities or persons which have an interest therein pursuant to applicable law or contractual rights or obligations;

c. the staff of the Agency shall be available to meet with Developer to discuss the Project, so that Developer shall have sufficient input to prepare its full proposal for the Project.

3. OBLIGATIONS OF DEVELOPER. Within sixty (60) days of the Effective Date, the Developer shall submit to the Agency a "Preliminary Development Concept Package," consisting of the following:

a. a preliminary development proposal generally describing the Project;

b. an initial estimate of development costs, including rehabilitation and non-rehabilitation costs, such as the proposed purchase price for land;

- c. a preliminary description of the proposed method of financing;
- d. a proposed rehabilitation and operating pro forma which identifies all sources and uses of funds;
- e. submittal of preliminary design(s) (including a scaled site plan indicating building and parking layout) for the purpose of demonstrating compliance with the design requirements of the City of Carson and to assist the Agency in conducting a review under the California Environmental Quality Act ("CEQA"); and
- f. audited corporate financial statements of each entity comprising the Developer, as applicable.

Agency staff may utilize independent financial or design consulting firms to verify and further analyze the Preliminary Development Concept Package at the Agency's sole expense.

Within thirty (30) days of the date of receipt of the Preliminary Development Concept Package, the Agency will provide its evaluation ("Preliminary Agency Evaluation") to the Developer of the Preliminary Development Concept Package. Such evaluation will include the Agency's evaluation of items addressed in the Preliminary Development Concept Package. The Preliminary Agency Evaluation shall indicate Agency's preliminary determinations as to the appropriate level of review under CEQA.

Following the Preliminary Agency Evaluation, the Agency and the Developer shall continue to negotiate in good faith concerning the acquisition, development and use of the Property. During the Exclusive Negotiation Period, the Developer shall bear the costs of all actions and activities of the Developer, and the Agency shall bear the costs of all actions and activities of the Agency.

Prior to the termination of the Exclusive Negotiating Period, or any extension thereof, the Parties shall negotiate in good faith a mutually acceptable DDA for the development of the Project. If such a DDA is not entered into during the Exclusive Negotiation Period, or any extension thereof, then all rights, duties, and obligations of the parties hereto (except as otherwise provided in Section 13 hereof) shall terminate, and Agency shall be free to negotiate with any other party with respect to redevelopment of the Property for any purpose or use whatsoever.

4. DISPOSITION AND DEVELOPMENT AGREEMENT. During the Exclusive Negotiating Period the parties shall attempt to negotiate a DDA subject to and conditioned upon the Agency's successful acquisition of the Property from the current owner. The DDA shall require that Developer will apply for and pursue each funding source identified in the Project Budget at the earliest feasible opportunity, including, without limitation, applying to the California Tax Credit Allocation Committee for 9% tax credits in the second round of 2011, taking into account rules, requirements and scoring criteria applicable to each funding source regarding the development of the Project which contains various provisions, including, but not limited to, the following: (i) the design of the Project by the Developer, which design shall be subject to approval by the Agency and the City, (ii) the substantial rehabilitation of the Project by the Developer in accordance with final plans and specifications to be provided by the

Developer and approved by the Agency and pursuant to a detailed schedule of performance approved by the Agency, and in full compliance with all applicable laws including, but not limited to, those pertaining to the payment of prevailing wages, (iii) the operation and management of the Project by the Developer in a good and professional manner and the maintenance of landscaping, buildings and improvements in good condition and state of repair so as to be attractive to the residents and to the community, (iv) the operation of the Project by the Developer in compliance with all equal opportunity standards established by Federal and State law, (v) the right of the Agency and the City to inspect the Project from time to time to assure compliance with the foregoing provisions, (vi) the furnishing by the Developer to the Agency, upon the Agency's request, of conceptual drawings and schematics, final plans and working drawings for the Project and participation in presentations regarding all phases of development, (vii) assurances that the Project shall be of the highest quality, and (viii) the terms and conditions of the acquisition and sale of the Property to the Developer (or a limited partnership in which Developer or its affiliate acts as the general partner).

5. ARCHITECTURAL RENDERINGS. Prior to the thirtieth (30th) day after the date on which the Agency provides its comments on the Preliminary Development Concept Package, the Developer shall deliver to the Agency architectural renderings of the Project, including but not limited to, scaled elevations, site plan, and perspective views.

6. EXTENSION. The Exclusive Negotiating Period may be extended by the mutual written consent of the parties for up to two (2) additional periods of ninety (90) days, for a cumulative total of not more than one hundred eighty (180) days. The Agency's Executive Director may grant such extension upon receipt of an extension request and a report from Developer indicating in specific terms the efforts of Developer to date and the anticipated steps to be undertaken in the extension period for completion of the planning and negotiation phases of the Project. Prior to granting any such extension, the Agency shall consider all the efforts made by the Developer under and pursuant to the terms and conditions of this Agreement and to negotiate in good faith a DDA with the Agency for the Project. The granting of any extension pursuant to this Section 6 shall be in the complete control and discretion of the Agency.

7. TERMINATION. Either party may terminate this Agreement (and, with it, the Exclusive Negotiating Period) if the other party fails to comply with and perform in a timely manner, to the reasonable satisfaction of the first party, all provisions hereof to be performed by the other party, or if progress is not being made in negotiations hereunder to the first party's reasonable satisfaction. The party seeking to terminate this Agreement shall give thirty (30) calendar days written notice to the other party which specifies any dissatisfaction by the first party, including the opinion that the other party is not diligently prosecuting the performance of its obligations hereunder, and the first party shall not terminate this Agreement if the other party cures the deficiency specified in the notice to the reasonable satisfaction of the first party within such thirty (30) calendar day period.

8. NO PREDETERMINATION OF AGENCY DISCRETION. The parties agree and acknowledge that, while this Agreement does provide that the parties shall negotiate in good faith, this Agreement does not obligate either the Agency or the Developer to enter into a DDA, and approval of any DDA shall require the approval of both parties, with the Agency Board giving its approval, if at all, only after consideration of the DDA at a public meeting of the



Agency Board, and such consideration following a public hearing and all other proceedings required by law.

9. NO OTHER AGREEMENT. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. There are no agreements or understandings between the parties and no representations have been made by either party to the other as an inducement to enter into this Agreement, except as expressly set forth herein. All prior negotiations, written or oral, between the parties are superseded by this Agreement. This Agreement may not be altered, amended or modified except by a writing executed by both parties. Notwithstanding anything provided herein to the contrary, whether express or implied, the City and the Agency shall have no obligation to enter into a DDA with Developer, and neither the City nor the Agency nor their respective members, officers, staff or agents have made any promises to Developer other than to exclusively negotiate with Developer during the Exclusive Negotiating Period, and no statements of the City or the Agency or their respective officers, members, staff or agents as to future obligations shall be binding upon the City or the Agency until a full DDA is approved and duly executed by the Agency.

10. PROHIBITION AGAINST ASSIGNMENT BY DEVELOPER. This Agreement shall not be assigned by Developer without the Agency's prior written consent, which consent may be withheld in its sole and absolute discretion.

11. PROHIBITION AGAINST TRANSFER BY AGENCY. The Agency, upon acquisition of the Property, shall not transfer the Property during the Exclusive Negotiating Period.

12. ATTORNEYS' FEES. If either party should bring any legal proceeding relating to this Agreement, or to enforce any provision hereof, the party in whose favor judgment is rendered shall be entitled to recover reasonable attorneys' fees and expenses of litigation from the other.

13. INDEMNIFICATION. The Developer shall indemnify, defend, and hold the Agency and City harmless from any and all costs, losses, claims and other liability resulting from the Developer's execution of this Agreement and/or the Developer's performance under this Agreement. This indemnity shall survive the expiration or other termination of this Agreement. In the event that any claim should be filed against the Agency or City which would require indemnification by the Developer, the Agency or City shall notify the Developer of such claim in a timely manner to permit the Developer the opportunity to provide adequate representation to the Agency or City with respect to any such claim.

14. EMPLOYMENT OPPORTUNITIES. The DDA shall provide that (a) Developer shall work in cooperation with the City and use reasonable efforts to provide the residents of the City with employment opportunities in the rehabilitation and operation of the Project, including minority owned business enterprises, and (b) all contracts and leases for the Project shall contain appropriate language to effectuate this provision and provide that all solicitations for full or part-time, new or replacement, employment relating to the operation and rehabilitation of the project shall be listed with the Carson Career Center.

15. NOTICES. Any notice which is required or permitted to be given hereunder shall be given in writing by certified mail, postage prepaid, and return receipt requested, or by personal delivery. Notices shall be considered given upon the earlier of (a) personal delivery or (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice:

If to Developer:

BRIDGE Housing Corporation
19203 Von Karman Avenue, 6th Floor
Irvine, CA 92612
Attn: Kim McKay, Executive Vice President
Phone: (949) 622-5510
Fax: (949) 622-5511

With a copy to:

BRIDGE Housing Corporation
345 Spear Street, Suite 700
San Francisco, CA 94105
Attn: Rebecca Hlebasko, General Counsel
Phone: (415) 989-1111
Fax: (415) 495-4898

If to the City or the Agency:

City of Carson Redevelopment Agency
1 Civic Plaza Drive, Ste. 500
Carson, California 90745
Attn: Clifford Graves, General Manager Economic Development
Phone: (310) 233-4888
Fax: (310) 233-4804

With a copy to:

Aleshire & Wynder, LLP
Tower 17
18881 Von Karman Avenue, Suite 400
Irvine, CA 92612
Attn: Tiffany Israel, Esq.
Phone: (949) 223-1170
Fax: (949) 223-1180

16. NON-BINDING NATURE OF AGREEMENT. Each of the parties acknowledges and agrees that because circumstances may change, and because each of the parties have not fully considered the ramifications of their present intentions, including the



proposed terms of the DDA, this Agreement shall not be construed to bind the Agency or the Developer to enter into a DDA. The actual covenants and agreements of the parties with respect to the disposition and development of the Property shall be set forth in the DDA to be hereafter negotiated. By its execution of this Agreement, the Agency is not committing itself to or agreeing to undertake (a) any acquisition of land for the Project or the disposition of land to the Developer; or (b) any other acts or activities requiring the subsequent independent exercise of discretion by the Agency, the City, or any agency or department thereof. This Agreement does not constitute a disposition of property or exercise of control over property by the Agency or the City and does not require a public hearing. Execution of this Agreement by the Agency is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by the Agency and City as to any DDA and all proceedings and decisions in connection therewith.

17. APPLICABLE LAW. This Agreement shall be construed and interpreted under, and governed and enforced according to the laws of, the State of California.

18. COUNTERPARTS. This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

19. BROKERAGE COMMISSION. The Agency represents that it has engaged no broker, agent, or finder in connection with this transaction, and the Developer agrees to hold the Agency harmless from any claim by any broker, agent, or finder retained by the Developer. Accordingly, Agency shall not be liable to pay any real estate commission or any broker's fees which may arise in relation to the Project, the Property, or the transfer of title to the Property.

20. CORPORATE AUTHORITY. The person executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provision of this Agreement, and (iv) entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of execution by the Agency.

“AGENCY”

CARSON REDEVELOPMENT AGENCY,
a public body corporate and politic

Date _____

Chairman Jim Dear

ATTEST:

Agency Secretary Helen S. Kawagoe

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Agency Counsel Tiffany Israel

“DEVELOPER”

BRIDGE HOUSING CORPORATION-
SOUTHERN CALIFORNIA,
a nonprofit public benefit corporation

Kimberly A. McKay
Executive Vice President

LEGAL DESCRIPTION

EXHIBIT "A"

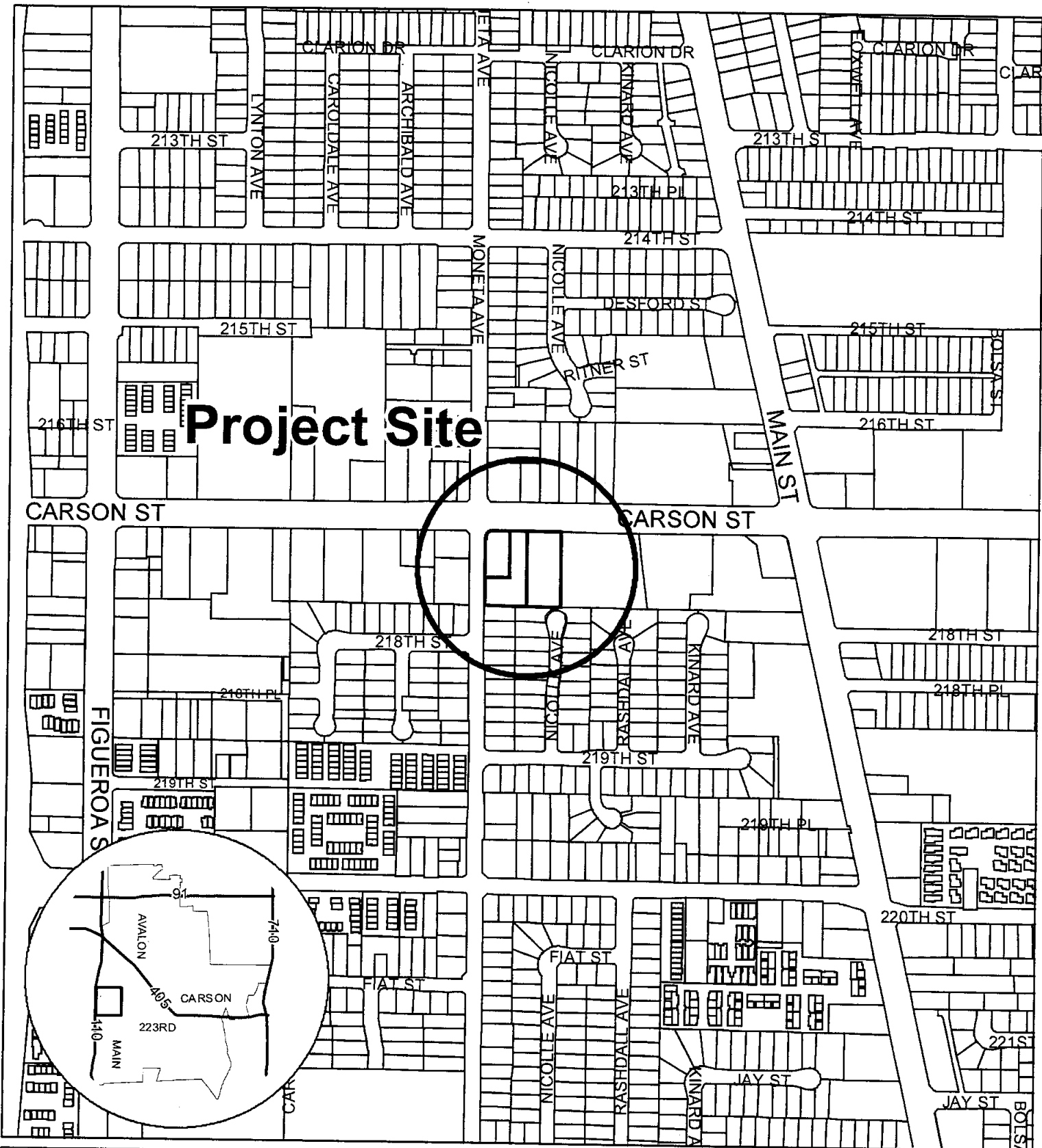
THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CARSON, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE WESTERLY 265.00 FEET OF LOT 37 OF TRACT NO. 3612, IN THE CITY OF CARSON, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 40, PAGES 5 AND 6 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THOSE PORTIONS CONDEMNED IN FEE TO THE COUNTY OF LOS ANGELES, IN THE FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 25, 1969, INSTRUMENT NO. 2425, OF OFFICIAL RECORDS.

APN: 7343-012-21,22,23





Project Site

City of Carson



**VICINITY MAP
228 - 244 W CARSON STREET**

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EXHIBIT NO. - 2