



## Legislation Text

---

**File #:** 23-482, **Version:** 1

---

*Report Prepared by: Frank Quintero, Deputy City Manager and Director of Economic Development*

**SUBJECT:** Rescind a Previously Approved Purchase and Sale Agreement with Dkota Investments, Inc. for a 3.1-Acre Site in the Airport Industrial Park, and Approve a Proposed Purchase and Sale Agreement with Dkota Investments, Inc., for a 2.74 Acre Site in the Airport Industrial Park for \$383,600.00 Located at 151 Hawk Drive Also Known as APN 059-420-013 for the Construction of a Warehouse Building

### REPORT IN BRIEF

Staff is requesting that Council cancel a previous Purchase and Sale Agreement with Dkota Investments, Inc. for a 3.1-acre site in the Airport Industrial Park, and consider the terms contained in a new Purchase and Sale Agreement for the disposal of a 2.74-acre site in the Airport Industrial Park for \$383,600.00 for the construction of an 11,478 square-foot warehouse building.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Rescinding the previous Purchase and Sale Agreement with Dkota Investments, Inc., for a 3.1-acre site located at 157 Hawk Drive (APN 059-420-012) considered on September 9, 2022; and,
- B. Approving the terms of the new Purchase and Sale Agreement with Dkota Investments, Inc., for the disposition of 2.74-acre site located at 151 Hawk Drive (portion of APN 059-420-013); and,
- C. Appropriating \$23,016.00 in Fund 5003-Airport Industrial Park from the proceeds of the sale to pay for Real Estate Commission; and,
- D. Authorizing the City Manager or Deputy City Manager to execute the necessary documents and make minor adjustments to the Purchase and Sale Agreement as needed (not effecting the purchase price).

### ALTERNATIVES

- 1. Approve as recommended by Staff; or
- 2. Approve, subject to conditions as specified by the City Council; or,
- 3. Refer to staff for reconsideration of specific items as requested by the City Council; or
- 4. Defer action until a specific date; or
- 5. Deny the request.

### AUTHORITY

Charter of the City of Merced, Section 200; Merced Municipal Code Section 2.36.20

## **CITY COUNCIL PRIORITIES**

City of Merced 2022-2023 Adopted Budget, Section 7, Economic Development, Objective #1 - "Create a business-friendly culture branding Merced as go to City for business investment."

## **DISCUSSION**

At the City Council meeting of September 19, 2022, Council approved a Purchase and Sale Agreement with Dkota Investment Inc., for the disposition of a 3.1-acre site located at 157 Hawk Drive in the Airport Industrial Park to build an 11,478 square foot warehouse building. During the due diligence period, the bank financing the project suggested moving the project another site after reviewing the environmental analysis. Staff is recommending the Purchase and Sale Agreement approved on September 19, 2022, be rescinded.

The developer and client company remain committed to building the facility in Merced, so they opted to move the project to an adjacent site. A new Purchase and Sale Agreement was drawn (Attachment 1.)

### New Purchase and Sale Agreement

Staff negotiated with representatives from Dkota Investments, Inc., for the purchase and development of 2.74-acre site in the Merced Airport Industrial Park. The subject site consists of a portion of a lot located at 151 Hawk Drive and is also known as Assessor's Parcel Number 059-420-013 (Attachment 1). The developer agrees to purchase the subject site for \$383,600.00 subject to the terms and conditions contained in the Purchase and Sale Agreement in its "as-is" condition (Attachment 2.)

### Project

The proposal presented is based upon staff's understanding of the scope of the anticipated project. The purchaser is proposing to construct an 11,478 square-foot warehouse (Attachment 3). The developer will be responsible for providing on-site parking, lighting, storm basin, landscaping and lot split (parcel map.) Given that the subject site is located adjacent to the Merced Yosemite Regional Airport, the land use is required to comply with the Merced County Airport Land Use Compatibility Plan.

### Council Priority

Prior to the Great Recession, several City-owned lots were sold to contractors, industrial service providers, and manufacturers with the last transaction taking place in 2006. The transaction with Dkota Investment, Inc., represents the second land transaction for City owned property within a year. Council directed staff to assertively work with developers to construct speculative buildings given the shortage of such industrial space.

### Proposed Terms

Key proposed sales terms include the following:

#### Land

Purchase: The price for 151 Hawk Drive is \$383,600.00.

Parcel Size: 2.74-acres

Deposit: The Buyer shall deposit a sum of \$38,360.00 into escrow within 5-days following the mutual execution of the Purchase and Sale Agreement. The deposit shall become non-refundable.

#### Final

Payment: \$345,240.00, all cash, paid upon close of escrow.

Commission: A commission of 6% will be paid.

#### Title

Company: The Buyer has indicated that a Merced-based title company will be used.

Escrow: Escrow shall open within 10 business day of an executed Purchase and Sale Agreement, and close within 60 days.

#### Closing

Costs: Buyer and Seller to split escrow fees 50/50 as is customary in Merced County.

#### Protective

Covenants: Sale of the property is subject to the Protective Covenants - Merced Airport Industrial Park adopted April 1972 and reinforced through grant deed drawn by the City Attorney's Office.

#### Surplus Property

At the City Council meeting of November 1, 2021, Council adopted Resolution 2021-102 of the City Council of the City of Merced Declaring Certain Properties as Exempt Surplus Land and Directing the City Manager to Follow the Procedures Set Forth in the Surplus Lands Act for their Disposition. The subject site located at 151 Hawk Drive was included in the properties identified as example surplus land. Therefore, the property may be sold for industrial use.

#### Land Use Compliance

The proposed project is consistent with the Light-Industrial (I-L) Zoning District and General Plan designation of Industrial (IND). All new construction projects within the Industrial Zoning Districts are subject to Site Plan Review.

#### **IMPACT ON CITY RESOURCES**

The transaction does not require any financial adjustment from the General Fund. Typically, revenues for Airport Industrial Park transactions are used for Industrial Park improvements or Airfield Improvement Projects.

## **ATTACHMENTS**

1. Location Map
2. Purchase and Sale Agreement
3. Site Plan
4. City Council Resolution 2021-102