

AGENDA OF A SPECIAL MEETING - PARKING AUTHORITY
OF THE CITY OF NATIONAL CITY



COUNCIL CHAMBERS
CIVIC CENTER
1243 NATIONAL CITY BOULEVARD
NATIONAL CITY, CALIFORNIA
TUESDAY, FEBRUARY 19, 2019 – 6:00 PM

ALEJANDRA SOTELO-SOLIS
Chairwoman

RON MORRISON
Boardmember

JERRY CANO
Boardmember

MONA RIOS
Boardmember

ORDER OF BUSINESS: Public sessions of all Regular Meetings of the Parking Authority (hereafter referred to as Elected Body) begin at 6:00 p.m. on the third Tuesday of August annually. Public Hearings begin at 6:00 p.m. unless otherwise noted. Closed Sessions begin at 5:00 p.m. or such other time as noted. If a workshop is scheduled, the subject and time of the workshop will appear on the agenda.

REPORTS: All open session agenda items and reports as well as all documents and writings distributed to the Elected Body less than 72 hours prior to the meeting, are available for review at the entry to the Council Chambers. Regular Meetings of the Elected Body are webcast and archived on the City's website www.nationalcityca.gov.

PUBLIC COMMENTS: Prior to the Business portion of the agenda, the Elected Body will receive public comments regarding any matters within the jurisdiction of the Parking Authority. Members of the public may also address any item on the agenda at the time the item is considered by the Elected Body. Persons who wish to address the Elected Body are requested to fill out a "Request to Speak" form available at the entrance to the City Council Chambers, and turn in the completed form to the City Clerk. The Chairperson will separately call for testimony of those persons who have turned in a "Request to Speak" form. If you wish to speak, please step to the podium at the appropriate time and state your name and address (optional) for the record. The time limit established for public testimony is three minutes per speaker unless a different time limit is announced. Speakers are encouraged to be brief. The Chairperson may limit the length of comments due to the number of persons wishing to speak or if comments become repetitious or unrelated.

1243 National City Blvd.
National City
619-336-4240

*Meeting agendas and
minutes available on web*

WWW.NATIONALCITYCA.GOV

WRITTEN AGENDA: With limited exceptions, the Elected Body may take action only upon items appearing on the written agenda. Items not appearing on the agenda must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature, and the need to take action on such items arose after the agenda was posted.

CONSENT CALENDAR: Consent calendar items involve matters which are of a routine or noncontroversial nature. All consent items are adopted by approval of a single motion. Prior to such approval, any item may be removed from the consent portion of the agenda and separately considered, upon request of a Boardmember, a staff member, or a member of the public.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

IT IS REQUESTED THAT ALL CELL PHONES AND PAGERS BE TURNED OFF DURING PARKING AUTHORITY MEETINGS.

OPEN TO THE PUBLIC

OPEN SESSION

CALL TO ORDER

ROLL CALL

NON CONSENT RESOLUTIONS

1. Resolution of the Parking Authority of the City of National City authorizing the City Manager to execute a Sixth Amendment to the Option to Purchase Agreement between the City of National City and CarMax Auto Superstores California, LLC, a Virginia limited liability company, extending the permitting period from February 25, 2019 to December 4, 2019, and having the Escrow closing occur two weeks after the expiration of the permitting period. (Housing & Economic Development)

ADJOURNMENT

Regular Meeting of the Parking Authority of the City of National City -
Tuesday, August 20, 2019 - 6:00 p.m. - Council Chambers - National City,
California.

**CITY OF NATIONAL CITY, CALIFORNIA
PARKING AUTHORITY AGENDA STATEMENT**

MEETING DATE: February 19, 2019

AGENDA ITEM NO. 1

ITEM TITLE:

Resolution of the Parking Authority of the City of National City authorizing the City Manager to execute a Sixth Amendment to the Option to Purchase Agreement between the City of National City and CarMax Auto Superstores California, LLC, a Virginia limited liability company, extending the permitting period from February 25, 2019 to December 4, 2019, and having the Escrow closing occur two weeks after the expiration of the permitting period.

PREPARED BY: Gregory Rose, Property Agent

DEPARTMENT: Housing & Economic Development

PHONE: (619) 336-4266

APPROVED BY: 

EXPLANATION:

See Attachment No. 1 Background Report.

FINANCIAL STATEMENT:

ACCOUNT NO. N/A

See Attachment No. 1 for Financial Explanation

APPROVED:  Finance

APPROVED: _____ MIS

ENVIRONMENTAL REVIEW:

A Sixth Amendment to the Option Agreement is not considered a project as defined by the California Environmental Quality Act (CEQA), and is therefore not subject to CEQA. The Optionee may exercise the option to purchase the property only upon the City certifying compliance with CEQA.

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt the Resolution.

BOARD / COMMISSION RECOMMENDATION:

Not Applicable

ATTACHMENTS:

- 1: Background Report
- 2: Sixth Amendment to the Option Agreement

PARKING AUTHORITY OF THE CITY OF NATIONAL CITY
CarMax Sixth Amendment to the Option Agreement

Option Agreement with CarMax

The Parking Authority of the City of National City ("Authority") owns a 15.08-acre parcel located at the southwest corner of Sweetwater Road and Plaza Bonita Center Way (APN 564-471-11). The Authority entered into an Option to Purchase Agreement ("Original Agreement") with CarMax Auto Superstores California, LLC, ("CarMax") on August 18, 2015. CarMax intended to use part of the Property to build a CarMax Superstore ("Project"), provide for on-site mitigation, and create a remnant parcel to be used for future development by the Authority. The total purchase price in the Original Agreement is not to be less than \$3,500,000 for 9.5 acres. If the Optionee elected to purchase more than 9.5 acres, the Agreement further describes how the purchase price for additional acreage would be calculated.

The Original Agreement was amended based on an updated appraisal ("Appraisal"), to a Purchase Price ("Purchase Price") of \$1,500,000 for 7.63 acres ("Property"). A review of the Appraisal confirmed that the adjusted Purchase Price offered by CarMax is consistent with the fair market value of the property. Extensive analysis has been conducted with consultants, the City, Caltrans, and other regulatory agencies to determine that site preparation, mitigation and construction costs are much higher than originally estimated. The higher costs were the main factor in CarMax's adjustment to the purchase price and size for the development of the Project. Under the Agreement, the Parking Authority would deliver the property free and clear of any encumbrances. At closing the Parking Authority will make immediately available funds in an amount equal to \$1,500,000 (i.e., that amount, when added to the Purchase Price, permitting the Authority to purchase the Easement from the County).

An Open Space Easement ("Easement") granted to the County of San Diego ("County") encumbers and prevents development of the Property. Over 11 years ago, the City negotiated an Option to Purchase the Easement from the County. The Option Price ("Option Price") was negotiated at \$3,000,000. The \$1,500,000 proceeds from the sale of the Property would go towards purchase of the Easement. There is a 3.05 acre residual parcel ("Residual Parcel") created from the CarMax development that can be sold by the Authority. Staff is currently working with a hotel developer to purchase the Residual Parcel in order to make up the \$1,500,000 (plus \$125,000 for closing costs & broker fees) difference needed to purchase the Easement. In case the Residual Parcel is not sold concurrently to a third party by the close of escrow with CarMax, the Parking Authority could consider temporarily committing \$1,500,000 plus closing costs (estimated at \$125,000) to close escrow with CarMax and remove the Easement if the sale of the Residual Parcel did not happen concurrently with the sale of the CarMax Property. Staff would return to the Authority with a request for the appropriation at least three months before the close of Escrow with CarMax if the residual parcel remains unsold. The Parking Authority would then be reimbursed the expense with the sale of the Residual Parcel which has an estimated value of \$1,800,000.

CarMax Proposes Changes to the Permitting Period and Closing

CarMax is currently working with the Water Quality Control Board to obtain their approval, but it will probably take most of 2019 to get their approval. All other regulatory agency approvals have been obtained. The Sixth Amendment would extend the permitting period from February 25, 2019 until December 4, 2019 giving CarMax time to obtain all necessary Permits, Approvals, and the Tentative Parcel Map. Closing shall occur two (2) weeks after the expiration of the Permitting Period.

SIXTH AMENDMENT
TO
OPTION AGREEMENT

This SIXTH AMENDMENT TO OPTION AGREEMENT (this "**Amendment**") is entered into as of February 19, 2019, by and between THE PARKING AUTHORITY OF THE CITY OF NATIONAL CITY, a public body corporate and politic (the "**Authority**") and CARMAX AUTO SUPERSTORES CALIFORNIA, LLC, a Virginia limited liability company (the "**Optionee**").

RECITALS

A. The Authority and Optionee are parties to that certain Option Agreement (CarMax, National City, California) dated as of August 18, 2015, as amended by that certain First Amendment to Option Agreement dated as of May 3, 2016, that certain Second Amendment to Option Agreement dated as of August 26, 2016, that certain Third Amendment to Option Agreement dated as of January 26, 2017, that certain Fourth Amendment to Option Agreement dated as of September 5, 2017, and that certain Fifth Amendment to Option Agreement dated as of December 6, 2018 (collectively, the "**Original Agreement**"), relating to certain real property in National City, California (the "**Property**").

B. Optionee has been in the process of obtaining all necessary Permits, Approvals, and the Tentative Parcel Map for its intended use.

C. The parties desire to amend the Original Agreement as hereinafter provided to extend the Optionee's Permitting Period.

D. Capitalized terms not otherwise defined in this Amendment shall have the meanings set forth in the Original Agreement. The Original Agreement, as modified by this Amendment, shall be referred to herein as the "**Agreement**."

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Extension of Permitting Period. Section 8(a) of the Original Agreement is hereby amended by deleting the first sentence thereof and inserting the following in lieu thereof: "Optionee shall have until December 4, 2019 to obtain all necessary Permits, Approvals, and the Tentative Parcel Map."

2. Closing. Section 10 of the Original Agreement is hereby amended by deleting the first sentence thereof and inserting the following in lieu thereof: "Notwithstanding anything set forth in this Agreement to the contrary, Closing shall occur two (2) weeks after the expiration of the Permitting Period."

3. General. Except as expressly amended hereby, the terms and conditions of the Original Agreement shall remain unmodified and in full force and effect. This Amendment may be executed in counterparts, all of which evidence only one agreement, binding on all parties, even though they are not signatories to the same counterpart. If any term, covenant or condition

of this Amendment or its application to any person or circumstances shall be held to be invalid or unenforceable, the remainder of this Amendment and the application of such term or provision to other persons or circumstances shall not be affected, and each term hereof shall be valid and enforceable to the fullest extent permitted by law. The terms of this Amendment are binding upon and shall inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns. This Amendment shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

AUTHORITY:

PARKING AUTHORITY OF THE CITY OF
NATIONAL CITY

By: _____
Leslie Deese, City Manager

Approved as to Form:

By: _____
Angil P. Morris-Jones
Legal Counsel for the Parking Authority
of the City of National City

OPTIONEE:

CARMAX AUTO SUPERSTORES
CALIFORNIA, LLC, a Virginia limited liability
company

By: _____
K. Douglass Moyers, Vice President