



City of Racine, Wisconsin
AGENDA BRIEFING MEMORADUM

AGENDA DATE: May 2 - Redevelopment Authority
 May 7 – Common Council

SUBJECT: **REPORT TO RDA AND COMMON COUNCIL REGARDING the sale of Property at 1825 DeKoven/1811 Phillips Avenue (within Southside Industrial Park) to Global Signal Acquisitions IV, LLC**

PREPARED BY: Amy Connolly, Director of City Development

SUMMARY:

City staff are seeking final RDA approval of resolutions effectuating the sale of property at 1811 Phillips Avenue to Global Signal Acquisition IV, LLC (Crown Castle/Verizon).

These documents requiring approval include:

1. Resolution 19-10 Approving Report to RDA regarding Sale of Property
2. Resolution 19-11 Approving and Recommending Sale of Parcel 3, CSM 2781
3. Resolution 19-12 Rescinding Resolutions 10-10, 18-12, and 18-15 Regarding SSIP Design Standards and Covenants

The adopted Redevelopment Plan for the Southside Industrial Park and Wisconsin Statutes § 66.1333(9) requires that before the sale of any property that the RDA provide a **Report to Common Council** on the terms, conditions and other material provisions of the transaction. This Agenda Briefing Memo will lay out the terms, conditions and material provisions of the sale to ensure full transparency and serves as the official Report.

BACKGROUND:



Crown Castle currently occupies this .12 acre property (1825 DeKoven/1811 Phillips Avenue/Lot 3) through long-term lease with the Redevelopment Authority for continued use as site for a wireless communication facility. In November, 2018, the RDA, through Resolution 18-32, agreed to execute a contract with Global Signal Acquisition IV, LLC (representing Crown Castle and Verizon) for a fee simple sale of the property (the “PSA”).

The purchase price of the property (5,250 square feet) is \$458,000.

The site has been in use as a wireless communication facility since 2002 when a conditional use was granted to prior owners, the DePalcyn’s, to erect a facility.

Since last November, City staff have been negotiating the final terms of the sale of the property and putting together conveyance documents meeting the requirements of the City Attorney (and outside counsel). As such, the conveyance will need to include the adoption of resolutions that declare that Crown Castle's use of the property is consistent with the Redevelopment Plan and can continue to be used as a site for a wireless communication facility. It is common for owners of such facilities (especially cell tower owners) to face opposition from nearby property owners to their plans to either increase the height of a tower or add additional antennas. Crown Castle has expressed its concern about potential third-party lawsuits challenging the company's right to continue its current use of the property, including in relation to the Redevelopment Plan or any Covenants and Restrictions.

City staff believes that a wireless communication facility is the highest and best use for the property and, additionally, that such use should be able to continue on the property as a benefit to the future development of the industrial park. Accordingly, the RDA can allay the company's concerns through adoption of resolutions that include legislative findings that continued use of the property as a communication facility site is a permitted use in accordance with the Redevelopment Plan, that such use furthers the objectives of the Redevelopment Plan, and that it is not inconsistent with the Local Objectives described in the Neighborhood Strategic Plan.

In addition, the RDA has approved through several resolutions, but has not yet recorded, a set of Covenants and Restrictions upon the properties within the Southside Industrial Park. Those Covenants and Restrictions likely cannot be recorded against the property Crown Castle seeks to purchase because they are not referenced in the PSA or reflected in the title report for the property. Rescission of the resolutions and approvals of the Covenants and Restrictions would give the RDA the opportunity to revise the Covenants and Restrictions to, among other things, ensure that they are consistent with state and federal law pertaining to the regulation of wireless communications sites. The current Covenants and Restrictions were largely intended to regulate industrial buildings and did not sufficiently address other uses, such as a wireless facility (which tends to have shed buildings and tall structures).

As the Covenants and Restrictions have not yet been recorded, we can complete the effort of re-writing the Covenants and Restrictions and bring them back to the RDA for approval within the next few months. As explained above, these Covenants and Restrictions would not be recorded against the property Crown Castle seeks to purchase but will be recorded against the rest of the property in the Southside Industrial Park. Staff may also suggest that the City improve all the industrial zoning design requirements and apply the design requirements City-wide rather than just for this park as a better method of improving the look of our City industrial parks.

There are several benefits for the RDA to sell the property:

1. The lump sum sale of the property takes advantage of heightened property values while they still exists.
2. Wireless communications has an important place and function in the Southside Industrial Park and is an amenity for the future redevelopment of the Redevelopment Plan area.
3. We are unsure how communications technology will develop and what impact that may have on the value of the subject property in the future. Selling the property now removes any uncertainty about the future value of the property.

Conclusions of the Executive Director:

1. The availability of wireless communications is essential to a modern industrial park, is useful to area residents and visitors, and is consistent with the Smart City vision for Racine.
2. The continued use of the Property as a Wireless Communications Facility will assist the RDA to achieve the stated objectives of the Redevelopment Plan and is consistent with the Vision for and not inconsistent with the Local Objectives described in the Neighborhood Strategic Plan for Southside Racine.
3. The sale of the property for continued use as a Wireless Communication Facility is in keeping with the intent and spirit of the Redevelopment Plan for the Southside Industrial Park and, furthermore, significantly improves the value and appearance of property surrounding and aids in the prevention or recurrence of slum and blighted areas.
4. The use and continued use of the property as a Wireless Communications Facility is a permitted use in accordance with the Redevelopment Plan.
5. The objectives of the Redevelopment Plan will be furthered by selling the Property in accordance with the PSA.

Terms, Conditions, Material Provisions of the Sale:

1. Sale of property addressed 1825 DeKoven/1811 Phillips Avenue, within the Southside Industrial Park, is currently owned by the RDA but intended for redevelopment.
2. Total parcel size of the property is 5,250 square feet (0.12 acre).
3. The negotiated price for the property is \$458,000, due upon closing.
4. The negotiated price is well above a market rate price for vacant land because the negotiated price takes into account both the value of the property and the value of future lease payments that would otherwise be made to the RDA.
5. The property is currently tax exempt and has not been appraised. The property may remain exempt from local property taxation after the sale, based on its use as a site for a wireless communication facility.
6. The purchaser, Crown Castle, has requested assurances regarding its continued use of the property for a wireless communication facility and the attached resolutions are intended to provide such assurances consistent with state and federal law.

FISCAL NOTE:

This \$458,000 in sale proceeds will provide the RDA access to funds to further leverage and support quality private-sector investment in economic development and redevelopment in the City of Racine. City will expend a small amount of money drafting and recording new covenants and restrictions for the South Side industrial park.

RECOMMENDATION:

City staff recommends the RDA and Common Council approve (through resolution) this Executive Director's Report on the terms, conditions, and material provisions of the sale of the property and also adopt the findings of fact and conclusions of the report.