



# City Council Report

**Date:** September 20, 2021  
**To:** City Council  
**Through:** Marc Heirshberg, Deputy City Manager  
**From:** Beth Huning, City Engineer  
Marc Ahlstrom, Assistant City Engineer  
**Subject:** Sale of City-owned property located near the Northeast corner of North Stapley Drive and East Main Street (1240 E. Main Street), Mesa, AZ (APN: 138-08-076H).  
Council District 4

## Purpose and Recommendation

The purpose of this report is to seek City Council approval related to the sale of the City-owned property located near the northeast corner of Stapley Drive and East Main Street at 1240 E. Main Street, Mesa, AZ, (APN 138-08-076H) by accepting the highest offer amount received. On August 26, 2021, the highest offer amount received was \$6,900,000.00 from Country Creek Multifamily, LLC, an Arizona limited liability company.

## Background

In 2015, City Council discussed available locations for the Mesa Regional Fire and Medical Dispatch Center & Emergency Operations Center (“EOC”). One of the locations considered was 1240 E. Main Street (“Property”), often referred to as the “Mervyn’s Site.” The Property is 7.33+/- acres in size with an existing 91,000 square foot building. The Property is currently zoned Limited Commercial (LC). The prior owner of the Property was going through bankruptcy and was trying to sell. In 2008, the prior owner of the Property purchased it for Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00). The City had the Property appraised and it appraised for \$2.9 million. The City made an offer of \$2.7 million. The offer was accepted, and the City entered into a Purchase Agreement for the purchase of the Property in November 2015.

The Property is encumbered with a Declaration of Establishment of Covenants and Reservations Affecting Real Property (“C & R”) recorded in January 1971 and binding for a period of 60 years, ending in January 2031. The C & R includes the following:

- Maximum area for the building on the Property is 131,000 square feet and must be constructed within the existing building footprint.
- Reciprocal and non-exclusive easements are in-place for parking, common, and service areas, and can only be used for the parking or

associated uses.

- No fences or other barriers can be constructed between the Property and the parcel to the east (Food City).
- The Property cannot be used for a supermarket.

At the City Council Study Session on December 10, 2015, City Council discussed the Property, and even though this location was not selected for the EOC, City Council gave direction to the City Manager to proceed with acquisition of the Property. Potential future uses of the Mervyn's site discussed at the Study Session included the following:

- Use of the back portion of the building for warehouse-like space.
- Using the front space along Main Street as future development for the upcoming light rail station.
- 45,000 square feet for Police Department evidence storage
- Valley Metro lease space for light rail construction

Additional right-of-way for the Gilbert Road Light Rail Extension Project ("GRE") was required along the frontage of the Property. The GRE project paid for the acquisition of the right of way in the amount of Sixty-Nine Thousand Three Hundred and Fifty Dollars (\$69,350.00). On February 11, 2016, the City of Mesa acquired the Property. The acquisition amount for the right of way was deducted from the \$2.7 million offer and the City paid at close of escrow the balance of Two Million Six Hundred Thirty Thousand, Six Hundred and Fifty Dollars (\$2,630,650.00).

From October 2016 to May 2019, during the construction of the GRE project, the Property was leased to Stacy Witbeck and Valley Metro for the light rail construction offices for Valley Metro and the contractor. The leased income received by the City was \$436,620. From February 1, 2021, until April 30, 2021, the south and west portions of the parking lot were used by Apollo Healthcare and Diagnostics, LLC for COVID testing.

Currently, a small portion of the building is used for storage of City materials but otherwise is considered vacant.

## **Discussion**

In April 2021, Real Estate received a Letter of Intent (LOI) to acquire the property for a use that was compatible with the existing improvements and C & R's. On May 19, 2021, an appraisal for the Property was prepared estimating the "as is" market value in the amount of Four Million Dollars (\$4,000,000.00). The interested party agreed with the appraised value. Due to the restrictions on the property and low interest in the market for large boxed commercial buildings the City entertained the LOI and prepared a Purchase Agreement. During the negotiations of the Purchase Agreement, Real Estate received another LOI to acquire the Property for a multifamily development.

Due to the interest from more than one potential buyer, a letter was sent to the interested parties on August 9, 2021, notifying the interested buyers that the City would allow each of them the opportunity to submit an offer for a Best & Final Purchase Price to acquire the Property. The letter included acknowledgements of the existing C & R's and that any sale of the Property is subject to the approval of the City Council.

The Best & Final Offer included the following terms:

1. Sixty-day Feasibility Period with a ten-day Close of Escrow.
2. Two Hundred Fifty Thousand Dollars and 00/100 (\$250,000.00) Earnest Money must be deposited with the Escrow Agent within five (5) Business Days of the Opening Date.
3. Bidder acknowledges that the Property is being sold in an "AS-IS" condition.

On August 26, 2021, the City received two best & final purchase price offers. The highest offer was in the amount of \$6,900,000.00 from Country Creek Multifamily, LLC, an Arizona limited liability company.

### **Alternatives**

An alternative is not to sell the Property. The City will retain ownership of the Property.

### **Fiscal Impact**

Accepting the Best & Final offer and approving the sale would show a positive fiscal benefit to the City in the amount \$6,900,000.00. There is no additional fiscal impact to this request.

### **Coordinated With**

The Engineering Department and City Management concur with this request.