

STAFF REPORT

City of Lancaster

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11/13/12

MVB

Date: November 13, 2012

To: Mayor Parris and City Council Members

From: Mark V. Bozigian, City Manager

Subject: **Acquisition of Operating Covenant and Restrictive Covenant with Antelope Valley Chevrolet in the Lancaster Auto Mall**

Recommendation:

Approve Acquisition of Operating Covenant and Restrictive Covenant with Antelope Valley Chevrolet in the Lancaster Auto Mall, and authorize the City Manager or his designee to execute all required agreements and documents.

Appropriate \$300,000 from General Fund Balance to Account No. 101-4540-308. Funds shall be provided to Antelope Valley Chevrolet for the purpose of acquisition of an Operating Covenant and Restrictive Covenant.

Fiscal Impact:

The City will provide \$300,000 to Antelope Valley Chevrolet as payment for a covenant for the operation of the Antelope Valley Chevrolet Dealership in the Lancaster Auto Mall for a minimum of 10 years. Based on the performance of Antelope Valley Chevrolet in the Lancaster Auto Mall since their grand opening on November 9, 2010, the City can expect significant sales tax revenues annually as well as a growing local employment force, which currently stands at 80 jobs.

Background:

In June of 2010, staff began discussions with Antelope Valley Chevrolet, Inc. regarding the possibility of the entity being awarded a new franchise for an Antelope Valley Chevrolet dealership. The City and the new Dealer expressed interest in locating this new dealership in Lancaster and began to craft a plan to secure a site in the Lancaster Auto Mall.

In August of 2010, the City Council authorized the Executive Director of the now-defunct Lancaster Redevelopment Agency to execute an agreement with Antelope Valley Chevrolet, and related entities, for the establishment and operation of a new Chevrolet Dealership in the Lancaster Auto Mall. The original proposed agreement contemplated that the Agency would provide monthly payments from available Agency funds to Antelope Valley Chevrolet ownership in the amount of \$20,000 per month, beginning November 1, 2010, for a period of 12 months and thereafter, for the following 16 months, a monthly payment in an amount equal to 50% of the monthly sales tax revenue generated by Antelope Valley Chevrolet. At any time during the 28 month payment period, the payments would have ceased upon lease or sale of identified real property, or when payments reached a total of \$604,000.

On August 11, 2010, the City of Palmdale filed suit against the City of Lancaster, General Motors Corporation, Antelope Valley Chevrolet, Hawse Automotive Properties, and other individuals and related entities to block the opening of the new Chevrolet dealership in the Lancaster Auto Mall and to block the Lancaster Redevelopment Agency's agreement with Antelope Valley Chevrolet. On September 24, 2010, a preliminary injunction was issued by the Superior Court for the County of Los Angeles which, in essence, allowed the new Chevrolet Dealership to open in the Lancaster Auto Mall, but enjoined the Lancaster Redevelopment Agency from providing any financial assistance to the new dealership.

A trial in the case was held on December 16, 2011 before the Honorable Judge Rita Miller of the Superior Court for the County of Los Angeles. Final Judgment in the case was entered on July 17, 2012 "...in favor of Defendants City of Lancaster, Lancaster Redevelopment Agency, Lancaster City Council, R. Rex Parris, Ronald D. Smith, Marvin Crist, Ken Mann, and Sherry Marquez." As a part of the Judgment, the City of Lancaster and the Lancaster Redevelopment Agency were "...enjoined for a period of two years from the date of the vehicle dealer's relocation (November 9, 2010) from providing any financial assistance to 7 Jays LLC/Antelope Valley Chevrolet, Inc." This two year period has now expired, although the Palmdale City Council has inexplicably filed an appeal in the case.

During the last two years, there has been much uncertainty caused by the Palmdale City Council's lawsuit. There have also been significant legal expenses, likely over \$1 million, borne by the taxpayers of the City of Palmdale and the City of Lancaster, along with the owners of Antelope Valley Chevrolet and Sierra Toyota / Scion. Against this challenging backdrop, and during a continuing economic downturn, Lou and Joyce Gonzales have more than kept their commitment to their customers, their employees, and the City of Lancaster by opening and growing the new Antelope Valley Chevrolet in the Lancaster Auto Mall.

Lou and Joyce Gonzales exemplify the level of character and entrepreneurship that the City of Lancaster seeks in our business partners. Not only did they open their new Chevrolet Dealership under the cloud of uncertainty previously discussed, they have significantly increased sales and, more importantly, doubled their workforce over the last two years. As a further testament of their commitment to their business and community, they will break ground this year on a Chevrolet Essential Brand Element Program expansion of their dealership. This \$1.2 million project will modernize, expand, and further improve the customer experience at Antelope Valley Chevrolet and the entire Lancaster Auto Mall.

Staff recommends the acquisition of an Operating Covenant and Restrictive Covenant with Antelope Valley Chevrolet to ensure their continued successful operation in the Lancaster Auto Mall.

Attachment:

Operating Covenant and Restrictive Covenant with Antelope Valley Chevrolet