

RESOLUTION NO. 2022-112

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CORONA, CALIFORNIA, ACCEPTING THE FIVE YEAR
ECONOMIC DEVELOPMENT SUBSIDY REPORT
PREPARED PURSUANT TO GOVERNMENT CODE
SECTION 53083 FOR THE OPERATING COVENANT
AGREEMENT BY AND BETWEEN THE CITY OF
CORONA AND DOWNS ENERGY**

WHEREAS, Downs Energy (“Downs”) owns and operates a commercial fueling and energy operation facility within the City, which is currently located at 1296 Magnolia Avenue in the City of Corona, County of Riverside (“Facility”); and

WHEREAS, the City of Corona (“City”), Downs and Downs Oil Co., Inc. (“Downs Oil”) entered into that certain Operating Covenant Agreement dated November 15, 2006, as amended on June 6, 2012, December 16, 2015, and August 2, 2017 (“Agreement”), which provides incentives to ensure Downs maintains and continues operating the Facility within the City for a term of at least 25 years and expands its operations within the City as appropriate; and

WHEREAS, subsequent to the effective date of the Agreement, Downs and Downs Oil merged into Downs Energy, which remains a party to the Agreement and the sole operator of the Facility; and

WHEREAS, pursuant to the Agreement, Downs has also covenanted to, among other things, designate the City as the point of sale for certain transactions; and

WHEREAS, the City agreed to purchase those covenants through quarterly payments equal to 50% of the sales tax, above a base sales tax amount, generated by transactions allocated to the Facility; and

WHEREAS, California Government Code section 53083(e) provides that the City must hold a public hearing within five years to provide an update on the economic development subsidy; and

WHEREAS, in accordance with Government Code section 53083(d), the City prepared and made available to the public, including on its website, a Five Year Economic Development Subsidy Report attached hereto as Exhibit “A” and incorporated herein by reference (“Five Year Report”); and

WHEREAS, in accordance with Government Code Section 53083(e), the City held a noticed public hearing on August 17, 2022 to consider all written and oral comments on the Five Year Report; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Acceptance of Five Year Report. The City Council finds and determines that the Five Year Report is in compliance with applicable law, specifically Government Code Section 53083, and hereby accepts the Five Year Report.

SECTION 3. CEQA. The City Council hereby finds that pursuant to the California Environmental Quality Act (“CEQA”) (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), acceptance of the Five Year Report is not a “project” for purposes of CEQA and therefore is not subject to CEQA review. Acceptance of the Five Year Report is not a project pursuant to State CEQA Guidelines section 15378(b)(4), which states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant environmental impact are not subject to CEQA. Further, acceptance of the Five Year Report is not a project under State CEQA Guidelines section 15061(b)(3), which states that CEQA does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 4. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 17th day of August 2022.

Mayor of the City of Corona, California

Attest:

City Clerk of the City of Corona, California

CERTIFICATION

I, Sylvia Edwards, City Clerk of the City of Corona, California, do hereby certify that the foregoing Resolution was regularly passed and adopted by the City Council of the City of Corona, California, at a regular meeting thereof held on the 17th day of August 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this 17th day of August 2022.

City Clerk of the City of Corona, California

[SEAL]

EXHIBIT A
FIVE YEAR ECONOMIC DEVELOPMENT SUBSIDY REPORT

[SEE ATTACHED THREE (3) PAGES]

**FIVE-YEAR ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083**

**FOR THE OPERATING COVENANT AGREEMENT
BY AND BETWEEN
CITY OF CORONA
AND
DOWNS ENERGY
(ADOPTED BY RESOLUTION NO. 2022-112: 08-17-22)**

Pursuant to Government Code Section 53083, the City Council of the City of Corona must hold a noticed public hearing within 5 years of the approval of an economic development subsidy and, prior to the public hearing, provide all of the following information in written form and make it available to the public and through the City's website. Notice was published in the local newspaper for a public hearing to be held on August 17, 2022.

The City, Downs Energy ("Downs Energy") and Downs Oil Co., Inc. ("Downs Oil") previously entered into that certain Operating Covenant Agreement dated November 16, 2006 ("Original Agreement"), that certain First Amendment dated June 6, 2012 ("First Amendment") and that certain Second Amendment dated December 16, 2015 (Second Amendment"), and that certain Third Amendment dated August 2, 2017. The Original Agreement, together with the First Amendment, Second Amendment and Third Amendment shall be referred to herein collectively as the "Agreement."

The purpose of this report is to provide the information required pursuant to Government Code Section 53083 in regard to the Agreement. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy, as further described in number 2 below.

1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy.

Subsequent to the effective date of the Agreement, Downs Energy and Downs Oil merged into Downs Energy, which remains a party to the Agreement and is the sole beneficiary of the economic development subsidy.

Downs Energy
1296 Magnolia Ave.
Corona, CA 92879

2. The start and end dates and schedule, if applicable, for the economic development subsidy.

As provided in the Original Agreement, the start date of the economic development subsidy commenced on the first day of Computation Quarter 1, as defined in the Original Agreement, which occurred on or about July 1, 2006. The end date under the Original

Agreement was established as the date that is no later than 25 years after the start date, which is on or around June 30, 2031. The First Amendment, approved by the City Council on June 6, 2012 extended the term of the Agreement an additional 5 years to be no later than 30 years after the start date, which is on or around June 30, 2036. The Second Amendment approved by the City Council on December 16, 2015 provides for automatic renewal for subsequent 60-month periods, unless terminated pursuant to the terms of the Agreement either before the end date of the Agreement or during and subsequent renewal period.

The economic development subsidy is paid quarterly (every 3 months), within 120 days of the end of each Computation Quarter. Computation Quarters run from January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

For Computation Quarter 1 through Computation Quarter 60, the economic development subsidy is an amount equal to fifty percent (50%) of the sales tax revenue received by the City during a Computation Quarter from taxable sales occurring at Downs Energy during that Computation Quarter provided that the sales tax revenue received by the City from taxable sales occurring at Downs Energy during each fiscal year must equal at least \$250,000. .

For Computation Quarter 61 through Computation Quarter 120, the economic development subsidy is an amount equal to fifty percent (50%) of the sales tax revenue received by the City during a Computation Quarter from taxable sales occurring at Downs Energy during that Computation Quarter provided that the sales tax revenue received by the City from taxable sales occurring at Downs Energy during each fiscal year must equal at least \$1,100,000.

Through the first quarter of 2022, the total amount paid by the City to Downs Energy is \$5,353,222.50.

4. A statement of the public purposes for the economic development subsidy.

The public purpose of the economic development subsidy includes, but is not limited to, having a company establish and maintain a physical presence in the City which creates jobs and stimulates the economic recovery of the Inland Empire. Downs maintains a sales office within the City and has expanded its operations within the City. The establishment of the sales office within the City generates substantial revenue for the City, creates new jobs, revitalizes an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and results in community and public improvements that might not otherwise be available to the community for many years. Additionally, by having a company like Downs maintain a physical presence in Corona we have added diversity to and generated new opportunities for economic growth.

Further, the sales office serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community. The Agreement also facilitates the retention of high paying/management jobs within the City and provides opportunity for additional job growth throughout the term of the Agreement.

5. The net tax revenue to the local agency as a result of the economic development subsidy.

The City has received \$9,020,913.64 from taxable sales occurring at Downs Energy.

6. The net number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

- 59 full-time jobs
- 5 part-time jobs
- 0 temporary positions