



Legislation Details (With Text)

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On agenda: 11/7/2018 **Final action:**
Title: City Council consideration of Ordinance No. 3288, for DA2018-0002 a Development Agreement between the City of Corona and All American Asphalt establishing the vested right to conduct surface mining operations on approximately 263 acres (located at 1776 All American Way, generally south of Magnolia and east of Interstate 15) in the M-3/M-R (Heavy Manufacturing/Mineral Resources Overlay) zone, and to establish an extraction royalty payment All American Asphalt will pay to the City for the duration of the development agreement (Applicant: All American Asphalt)

Sponsors:

Indexes:

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Attachments: 1. Staff Report.pdf, 2. Staff Report with Attachments.pdf

Date	Ver.	Action By	Action	Result
11/7/2018	2	City Council	accepted	Pass

AGENDA REPORT REQUEST FOR CITY COUNCIL ACTION

DATE: 11/7/2018

TO: Honorable Mayor and City Council Members

FROM: Community Development Department

SUBJECT:

City Council consideration of Ordinance No. 3288, for DA2018-0002 a Development Agreement between the City of Corona and All American Asphalt establishing the vested right to conduct surface mining operations on approximately 263 acres (located at 1776 All American Way, generally south of Magnolia and east of Interstate 15) in the M-3/M-R (Heavy Manufacturing/Mineral Resources Overlay) zone, and to establish an extraction royalty payment All American Asphalt will pay to the City for the duration of the development agreement (Applicant: All American Asphalt)

RECOMMENDED ACTION:

That the City Council:

1. Adopt the Subsequent Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

2. Introduce by title only and waive full reading for consideration of Ordinance No. 3288, first reading of an ordinance approving a development agreement between the City of Corona and All American Asphalt establishing the vested right to conduct surface mining operations on approximately 263 acres (located at 1776 All American Way, generally south of Magnolia and east of Interstate 15) in the M-3/M-R (Heavy Manufacturing/Mineral Resources Overlay) zone, in Corona, California, pursuant to California Government Code Section 65865 et seq. (DA2018-0002)
3. Approve an estimated revenue increase of \$43,750 in the General Fund for Fiscal Year 2018-19.

ANALYSIS:

All American Asphalt (AAA) currently operates in the city under Surface Mine Permit 95-1 (SMP95-1). All American Asphalt is located in an area of the city that is predominately used for surface mining, generally located south of Magnolia Avenue and east of Interstate 15 (1776 All American Way). Vulcan Materials is located south of AAA's quarry and operates a surface mine with ancillary uses similar to AAA. Vulcan is entitled to mine on 260 acres and was granted a permit extension for 100 years in May 2014. The land to the south beyond Vulcan's property is 3M's surface mine. 3M is 1,320 acres located in the unincorporated area of Riverside County and abuts the city's incorporated boundary. The city inherited the surface mines operated by All American Asphalt and Vulcan Materials at the time of annexation in 1991 and are the only two surface mining operations located in the city.

Development Agreement 2018-0002 would ensure AAA's vested right to conduct surface mining operations on approximately 263 acres until the sooner of exhaustion of permitted reserves or 100 years. The Agreement is being considered at this time because AAA is processing an amendment to the existing surface mine permit, which is concurrently being reviewed by SMP2017-0101. The permit amendment would: 1) extend the permit for a period of 100 years; 2) mine to a depth of 400 feet above mean sea level (amsl) from 500 feet above mean sea level under the existing permit; 3) reconfigure the mining phases of the operation from three to five phases within the current footprint allowed by the existing surface mine permit; and 4) increase total reserves to 177 million tons from 112 million tons.

AAA's existing surface mine permit is set to expire in Year 2021. In exchange for the long-term permit, AAA agrees to pay the city an annual extraction royalty based on the amount of Portland cement concrete (PCC) and Non-PCC material extracted from the site. The Agreement would guarantee the city receives an extraction royalty from the mineral resources extracted from the site either sold as a finished product and transported off the site or transported off the site for further processing and sale off-site.

AAA will be the second mining operator to pay an extraction royalty to the city. Vulcan Materials currently pays an extraction royalty payment to the city at the same per ton rate being established by this Agreement. The city is not aware of any other mines in the general vicinity, such as those located in the unincorporated county area of Temescal Valley, of paying an extraction royalty. As such, AAA and Vulcan are the only known operators in the area to pay an extraction royalty.

Extraction Royalty

Article 4 of the Development Agreement discusses the annual extraction royalty to be paid to the city.

The extraction royalty will be paid on a quarterly basis within a calendar year and will be deposited into the city's General Fund budget. The extraction royalty can be used to fund on-going operating costs for the city, costs associated with the maintenance of public infrastructure, public facilities or city programs. The following table describes the material subject to the extraction royalty.

Material		Extraction Royalty
Portland Cement Concrete (PCC)	Aggregate material used for construction. Aggregate consists of sand, gravel and crushed stone and is the bulk and strength to PCC, Asphaltic Concrete, plaster and stucco.	\$0.05 per ton
Non-PCC	Material not suitable for PCC use and usually consists of overburden, other waste rock or topsoil.	\$0.03 per ton

The extraction royalty is applicable to material extracted from the site and either 1) sold as a finished product and transported off the site or 2) transported off the site for further processing and sale off-site. Non-royalty material is topsoil, overburden, rock, sand, gravel or other material that is extracted and retained on-site, or that is imported to the site for reclamation or other operational use on site. The extraction royalty would go into effect on the effective date of the Development Agreement.

Private Benefit to AAA

The Development Agreement confers certain private benefits on All American Asphalt. AAA is a leader in the industry for using recycled aggregates from construction sites. This has decreased the extraction of organic material from the site which has resulted in AAA needing to extend their permit for an extended period of time to exhaust all available resources at the site. The DA would give AAA a vested right to conduct surface mining operations and other ancillary processing operations, such as a hot-mix asphalt plant and ready mix concrete batch plant. The term of the DA would give AAA the vested right to conduct surface mining operations until the sooner of exhaustion of permitted reserves or 100 years from the date the DA goes into effect.

Public Benefit to City

The extraction royalty required by the Development Agreement would be in addition to the existing Operating Covenant Agreement between AAA and the city. AAA is a privately-owned family operated business. The Operating Covenant Agreement allows California sales tax to be shared between AAA and the city as a means of providing an incentive to ensure that AAA maintains and expands its existing asphalt and concrete sales facilities in the City of Corona. The Operating Covenant Agreement requires the city to make covenant payments equal to the sum of 25% of sales tax revenue attributable to AAA's taxable sales that exceed \$500,000 and covenant payments equal to 50% of AAA's taxable sales if sales tax revenue exceeds \$1,000,000. If AAA's taxable sales are less than \$500,000 in a year, the city is not obligated to make covenant payments and the city is not obligated to make covenant payments on the first \$250,000 of taxable sales each year. Although the sales tax revenue is essentially shared between the city and AAA after a certain threshold, the city does benefit from the sales revenue from material sold outside Corona. Therefore, the Development Agreement would benefit the existing Operating Covenant Agreement the city has with AAA.

The city's adopted Fiscal Year 2018-19 Budget highlights the Top 10 employers and Top 25 sales tax

producers in the city, which are exhibited in the following tables. As shown, All American Asphalt is the fourth largest employer in the city by providing 842 jobs and one of the 25 top sales tax producers.

TOP 10 LARGEST EMPLOYERS, 2017		
Employer	Sector	# Jobs
Corona Norco Unified School District	Education	5,098
Corona Regional Medical Center	Health Services	1,113
Kaiser Permanente	Health Services	995
All American Asphalt	Construction	842
City of Corona	Government	749
Fender USA	Manufacturing	600
TWR Framing Enterprises	Construction	600
Monster Energy	Distribution	544
CoreMark International	Manufacturing	421
Dart Container	Manufacturing	420

TOP 25 SALES TAX PRODUCERS, 2017	
Alphabetical Order, FY2016-17	
Agile Sourcing Partners	Home Depot
All American Asphalt	Honda Cars of Corona
American Electric Supply	Kohl's
Anixter	Larry H. Miller Toyota
Best Buy	Pro Parts
Cardinale Way Volkswagon, Hyundai and Mazda	Robertsons Ready Mix
Chevron	Ross
Costco	Sam's Club
Culver Newlin	Stater Brothers
Downs Commercial Fueling	Target
Ganahl Lumber	Vulcan Materials
Guest Supply	Walmart
Hansen Beverage	

Source: Hinderliter, deLlamas & Associates (HDL Associates).

COMMITTEE ACTION:

The Infrastructure Committee at its meeting on November 1, 2017 was given an update on All American's surface mine permit and proposed extension of time.

STRATEGIC PLAN:

Not applicable.

FISCAL IMPACT:

The Development Agreement will establish an annual extraction royalty that will be paid by All American Asphalt to the city. The extraction royalty will remain in effect for as long as active surface mining is being done on the property. The city will be paid a royalty of \$0.05 per ton of Portland cement concrete - grade aggregate material (PCC Material) extracted from the site, and a royalty of \$0.03 per ton of material not suitable for Portland cement concrete use (Non-PCC Material). The extraction royalty would provide a positive revenue source to the General Fund. Based on historical

production information, the annual General Fund revenue estimate is \$75,000. This amount will fluctuate based on actual production. The pro-rated revenue estimate for Fiscal Year 2018-19 is \$43,750.

GENERAL FUND	
Budget Workshop May 23, 2018 - Est. Revenue Over Expenditures	\$6,626,911
Previously approved budget adjustments (net) - Note 1	(6,018,909)
Revised Estimated Revenue Over Expenditures	\$608,002
Development Agreement - Revenue Increase	43,750
Revised Estimated Revenue Over Expenditures - Note 1	\$651,752
Estimated Budget Balancing Measures Reserve 06/30/18	\$20,645,252
Estimated FY 2018-19 Change in Budget Balancing Measures	651,752
Estimated Budget Balancing Measures Reserve 6/30/19	\$21,297,004

Note 1 - includes additional General Fund items on the Nov. 7, 2018 Council Agenda.

The Development Agreement would also extend the term of AAA's surface mining operations which benefits the existing Operating Covenant Agreement between AAA and the City of Corona. The Operating Covenant Agreement allows California sales tax to be shared between AAA and the city as a means of providing an incentive to ensure that AAA maintains and expands its existing asphalt and concrete sales facilities in the City of Corona.

ENVIRONMENTAL ANALYSIS:

The City of Corona has determined that a subsequent Mitigated Negative Declaration from the 1991 Mitigated Negative Declaration for SMP90-1 and 1995 Mitigated Negative Declaration for SMP95-01 should be prepared for the proposed project. CEQA Guidelines § 15162 (a)(2) states that when a negative declaration has been adopted for a project, no subsequent negative declaration shall be prepared for that project unless the lead agency determined, on the basis of substantial evidence in the light of the whole record, substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The project proponent proposed some variations to the previously approved project which required additional mitigation measures for groundwater resources. The City of Corona has determined that this subsequent mitigated negative declaration is appropriate and in compliance with CEQA.

The subsequent MND (SCH# 2018081065) was submitted to the State Clearinghouse on August 23, 2018. The 30-day review and comment period for state and regional agencies closed on September 25, 2018. The city received one comment letter from South Coast AQMD. The comment had to do with the future relocation of the processing plant and analysis according to Rule 1401. The final subsequent MND included discussion on the application of Rule 1401.

PLANNING AND HOUSING COMMISSION ACTION:

At its meeting of October 8, 2018, the Planning and Housing Commission considered the subject

matter and took the following action:

Motion was made, seconded (Carrillo/Jones) and carried unanimously with Chair Norton and Commissioner Dunn absent, that the Planning and Housing Commission recommend approval of DA2018-0002 to the City Council based on the findings contained in the staff report. The minutes of the Planning and Housing Commission meeting are included as Exhibit 3.

PREPARED BY: JOANNE COLETTA, COMMUNITY DEVELOPMENT DIRECTOR

REVIEWED BY: DEAN DERLETH, CITY ATTORNEY

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

REVIEWED BY: MICHELE NISSEN, ASSISTANT CITY MANAGER

SUBMITTED BY: DARRELL TALBERT, CITY MANAGER

EXHIBITS

1. City Ordinance No. 3288 (Development Agreement Attached).
2. Planning and Housing Commission Staff Report.
3. Minutes of the Planning and Housing Commission meeting of October 8, 2018.

APPLICANT INFORMATION

All American Asphalt, 400 East Sixth Street, Corona, CA 92879