

## RESOLUTION NO. 17-125

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, FINDING AND DETERMINING THAT HARBOR LAND COMPANY, LLC HAS COMPLIED WITH THE CONDITIONS NECESSARY TO BE GRANTED AN EXCEPTION TO THE APPLICATION OF INTERIM URGENCY ORDINANCE NO. 17-1618U IN CONNECTION WITH A NEW LEASE OF A 6.736 ACRE PARCEL OF REAL PROPERTY, LOCATED AT 24690 SOUTH WILMINGTON AVENUE, AS AND FOR A CONTAINER FACILITY

**WHEREAS**, on March 21, 2017, the City Council of the City of Carson adopted Interim Urgency Ordinance No. 17-1615U by a 5-0 vote, pursuant to its authority under Government Code § 65858; and

**WHEREAS**, Interim Urgency Ordinance No. 17-1615U enacted a 45-day moratorium on the establishment, expansion, or modification of truck yards, logistics facilities, hazardous materials and hazardous waste facilities, container storage, and container parking (collectively, “Logistics Facilities”) in the City of Carson; and

**WHEREAS**, on May 2, 2017, the City Council adopted Interim Urgency Ordinance No. 17-1618U by a 5-0 vote, pursuant to its authority under Government Code § 65858; and

**WHEREAS**, Interim Urgency Ordinance No. 17-1618U enacted a 10-month and 15-day extension of the moratorium on the establishment, expansion, or modification of Logistics Facilities (the “Ordinance”); and

**WHEREAS**, during the effective period of the Ordinance, no application for permit is being accepted, no consideration of any application for permit is being made, and no permit is being issued by the City for the establishment, expansion, or modification of Logistics Facilities; and

**WHEREAS**, the City Council may allow exceptions to the application of the Ordinance if, based on substantial evidence presented, it determines any or a combination of the following:

1. The City’s approval of an application for a permit to establish, expand, or modify a Logistics Facility within the City’s jurisdiction will not have a material negative impact upon the public health, safety, and welfare.
2. Application of the Ordinance would impose an undue financial hardship on a property or business owner.
3. Land controlled by the City or by any of its agencies and authorities including, transactions approved by the Department of Finance.
4. The developer or tenant agrees to form or to participate in a Community Financing District (CFD) to pay for ongoing City services, including but not limited to, road maintenance, landscape maintenance, lighting, public safety, storm water management, etc., to the satisfaction of the City Council.

5. The developer or tenant enters into an agreement that guarantees the City the same financial assurances offered by a CFD.
6. The fiscal impact analysis for the business shows that the business will not, after taking into consideration all fiscal and employment benefits to the City and its residents, have material adverse negative fiscal impacts on the City.
7. The Logistics Facility will not generate additional materially adverse truck traffic impacts in excess of those generated by the use of the property as of the effective date of this Ordinance.
8. The facility enters into a development impact fees agreement with the City.
9. The use is permitted or conditionally permitted in the zone;
10. The use is consistent with the purposes of this Ordinance and the General Plan;
11. The use will not be in conflict with any contemplated general plan, specific plan, or zoning code update that the City Council is considering or studying or intends to study;
12. The use is not and will not become a hazardous materials facility, a truck yard, or a container storage facility;
13. The use will not abut a sensitive land use, or the impacts on an abutting sensitive land use can be adequately mitigated with reasonable conditions;
14. The use will not constitute a threat to the public health, safety, and welfare.

**WHEREAS**, by letters dated July 24, 2017 and August 7, 2017, respectively, Andrew W. Zepeda, Esq., of Lurie, Zepeda, Schmalz, Hogan & Martin, representing Harbor Land Company, a California LLC, has requested that the City Council find and determine that Harbor Land Company is entitled to an exception or exemption to the Ordinance that would allow Harbor Land Company to enter into a new lease, commencing on October 1, 2017 and to run for seven (7) calendar years thereafter, with a new tenant to continue to operate a logistics facility on a 6.7 acre property in the MH (Manufacturing Heavy) zone, whose common street address is 24690 South Wilmington Avenue, City of Carson; and

**WHEREAS**, staff have reviewed these requests and have determined that the same would, in the discretion of the City Council, meet the intent of the Ordinance and the General Plan and would be eligible for an exception under the Ordinance subject to compliance with the conditions of this Resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, **HEREBY FINDS, DETERMINES & ORDERS AS FOLLOWS:**

1. The foregoing recitals and true and correct and incorporated herein.
2. Harbor Land Company, a California LLC, has requested an exception or exemption from the Ordinance to permit it to enter into a new lease, commencing on October 1, 2017 and to run for seven (7) calendar years thereafter, to continue to

operate a logistics facility on a 6.7 acre property in the MH (Manufacturing Heavy) zone, whose common street address is 24690 South Wilmington Avenue, City of Carson (the "Request").

3. The Request is subject to the moratorium on the establishment, expansion, or modification of Logistics Facilities pursuant to the Ordinance.

4. But for the Ordinance, the Request seeks to continue a use permitted by right of zone because it is at least 1000 feet from residential areas.

5. But for the Ordinance, the Request seeks to continue a use that does not abut a sensitive use nor does it impact abutting sensitive uses. The site of the affected real property and its immediate surroundings are and are expected to remain heavy industrial uses.

6. But for the Ordinance, the Request seeks to continue an existing container storage facility and no intensification of this use is proposed.

7. The Request is not subject to the payment of the Interim Development Impact Fee and the Community Facilities District.

8. Section 6 of the Ordinance No. 17-1618U provides that the City Council may allow exceptions to the application of the same, provided the City Council determines any of the provisions included in Section 6, A, 1 through 14 apply to the Request.

9. The provisions of Section 6.A. 1, 5, 7, 9, 10, 11, 13, and 14 of the Ordinance apply to the Request and thereby entitle Harbor Land Company, a California LLC, to an exception from the Ordinance.

10. Accordingly, Harbor Land Company, a California LLC, is hereby granted an exception from the Ordinance for the sole and singular purpose of allowing Harbor Land Company to enter into a new lease, commencing on October 1, 2017 and to run for seven (7) calendar years thereafter, with a new tenant so as to continue to operate a logistics facility on a 6.7 acre property in the MH (Manufacturing Heavy) zone, whose common street address is 24690 South Wilmington Avenue, City of Carson.

11. As a condition of granting this exception, Harbor Land Company, a California LLC, shall pay to City, within five (5) business days of the adoption of this Resolution, a one-time fee of \$75,000.00 as and for a traffic impact mitigation fee for impacts from the continued operations of a logistics facility on City's roads during the term of the new seven (7) year lease.

12. Such traffic impact mitigation fee is hereby found and determined to be reasonable within the meaning of the California Supreme Court decision in *Jacks v. City of Santa Barbara* because the same was calculated based on 65 truck trips per day for seven years, and at \$0.50 per truck trip. The City Council further affords Harbor Land

Company, a California LLC, a discount in such traffic impact mitigation fee in return for advance payment of the same.

13. This Resolution is exempt from the requirements of the California Environmental Quality Act as a Class 1 Categorical Exemption, Existing Facilities, pursuant to Section 15301 of the CEQA Guidelines.

**PASSED, APPROVED AND ADOPTED THIS 5<sup>th</sup> DAY OF September, 2017.**

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**MAYOR ALBERT ROBLES**

**ATTEST:**

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**DONESIA L. GAUSE, CITY CLERK**

**APPROVED AS TO FORM:**

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**Sunny Soltani, City Attorney**