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**Title:** CONSIDER ADOPTING RESOLUTION NO. 19-011 TO EXTEND THE DEADLINE BY WHICH SHIPPERS TRANSPORT EXPRESS, MUST TERMINATE OPERATIONS AND VACATE THE SITE LOCATED AT 1150 EAST SEPULVEDA BOULEVARD, CITY OF CARSON (CITY COUNCIL)

**Sponsors:**

**Indexes:**

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**Attachments:** 1. Carson - Tesoro - Resolution Re Shippers Site

Date	Ver.	Action By	Action	Result
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**Report to Mayor and City Council**

Tuesday, January 08, 2019

Consent

**SUBJECT:**

**CONSIDER ADOPTING RESOLUTION NO. 19-011 TO EXTEND THE DEADLINE BY WHICH SHIPPERS TRANSPORT EXPRESS, MUST TERMINATE OPERATIONS AND VACATE THE SITE LOCATED AT 1150 EAST SEPULVEDA BOULEVARD, CITY OF CARSON (CITY COUNCIL)**

**I. SUMMARY**

The City Council is being asked to approve a Resolution to formally memorialize its approval of an extension to Shippers Transport Express, Inc.'s ("Shippers") operation of cargo container storage/truck parking facilities on the property located at 1150 East Sepulveda Blvd., (the "Property"). The extension request was considered and approved by the City Council during it closed session meeting held on December 4, 2018, 2018, which action was reported out during the Council Meeting held on such date, but was made subject to the required payments for such extension by Shippers, or by Tesoro Refining & Marketing Company LLC ("Tesoro"), as the landowner of the Property, as set forth in Resolution No. 17-088 (the "Compliance Resolution") adopted by the City Council.

**II. RECOMMENDATION**

**ADOPT RESOLUTION 19-011 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TO EXTEND THE DEADLINE BY WHICH SHIPPERS TRANSPORT**

EXPRESS, MUST TERMINATE OPERATIONS AND VACATE THE SITE LOCATED AT  
1150 EAST SEPULVEDA BOULEVARD, CITY OF CARSON

### **III. ALTERNATIVES**

1. DO NOT APPROVE the Resolution.
2. TAKE another action that the City Council deems appropriate and consistent with the requirements of the Compliance Resolution.

### **IV. BACKGROUND**

Shippers originally took up occupancy of a portion of the Property in November 1999 pursuant to a ground lease for truck parking and the operation of a cargo container facility. Thereafter, Shippers expanded its operations to ultimately include approximately 59 acres in total, which are currently subject to certain ground leases with Tesoro. Various disputes emerged between the City and Shippers regarding the use of the Shippers Site and certain violations in the permitting requirements for the site.

The City determined that Shippers' operations at the Property violated certain provisions of the City's Municipal Code ("CMC") based on the fact that, among other things, its cargo container storage operations were located within the 1,000 foot setback from residentially-zoned property without a CUP as set forth under the CMC, and that the Ground Lease, dated January 1, 2005 between Shippers and BP West Coast Products LLC ("BP") (the predecessor-in-interest to Tesoro's interest in the Property) was entered into without the required City approvals. The disputes between the parties were resolved pursuant to Resolution No. 17-088 (the "Compliance Resolution") adopted by the City on July 5, 2017. Pursuant to the Compliance Resolution, Shippers and Tesoro were ordered to terminate the operation of any cargo container storage and/or any truck parking facilities on the Project Site. Under the terms of the Compliance Resolution, such termination was required to occur on or before December 31, 2018 (the "Compliance Deadline"). Failure to meet the Compliance Deadline would entitle the City to pursue enforcement proceedings and legal actions against Shippers and/or Tesoro in order to ensure compliance with the CMC, including, a delinquent departure penalty fee in the amount of \$5,000 for each day of delayed departure / termination.

Per the terms of the Compliance Resolution, in the event that Shippers and/or Tesoro are unable to meet the Compliance Deadline, Shippers must submit a written request to extend the deadline on or before October 1, 2018 and following such request, the City may, in its sole discretion, allow for an extension of the Compliance Deadline for up to two (2) additional calendar years (an "Extended Compliance Deadline") (i.e., until December 31, 2020). If the Compliance Deadline is extended by the City, either Shippers or Tesoro must pay a fee of \$250,000 ("Extension Fee") for each 3 month period of extension beyond the Compliance Deadline in order to enable Shippers to continue its storage/parking operations on the Property. In addition, if the City agrees to extend the Compliance Deadline, the Compliance Resolution requires Shippers / Tesoro to deposit \$500,000 as an advance deposit of Shippers' / Tesoro's required payments of Extension Fees (or any associated compliance costs incurred by the City) within 30 days following the City's grant

of such extension.

The Compliance Resolution also required, among other things, that Shippers / Tesoro pay to the City the following Development Impact Fees (“DIF”): (i) a “Retroactive Development Impact Fee” of \$900,000 reflecting compensation for past operations by Shippers up to June 30, 2016, (ii) a “2017 Development Impact Fee” of \$250,000 on or before December 31, 2017, reflecting compensation for operations by Shippers between July 1, 2016 and June 30, 2017, and (iii) a “2018 Development Impact Fee” of \$250,000 on or before December 31, 2018, reflecting compensation for operations by Shippers between July 1, 2017 and December 31, 2018. All such payments have been made as required under the Compliance Resolution.

On October 1, 2018 Shippers/Tesoro requested an extension to the Compliance Deadline for a one-year period (i.e., December 31, 2019) in order to terminate its storage and parking operations and vacate the Property. The extension request was considered and approved by the City Council during its closed session meeting held on December 4, 2018, 2018, which action was reported out during the Council Meeting held on December 4, 2018.

As a result of such extension approval, Shippers and/or Tesoro have paid an initial extension fee of \$250,000 together with the \$500,000 advance deposit as required by the Compliance Resolution.

In order to formally memorialize the City Council’s approval of such extension, the City Council shall consider an adoption of a Resolution of extension.

## **V. FISCAL IMPACT**

The City has already received \$1,400,000 in DIF payments from Tesoro/Shippers as compensation for Shippers cargo storage and parking operations on the Property. Approval of the Resolution would provide the City with up to \$1,000,000 as consideration from Shippers / Tesoro for the City’s allowance of Shippers’ continued operations on the Property for the full one (1) year extension period.

## **VI. EXHIBITS**

1. RESOLUTION 19-011 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TO EXTEND THE DEADLINE BY WHICH SHIPPERS TRANSPORT EXPRESS, MUST TERMINATE OPERATIONS AND VACATE THE SITE LOCATED AT 1150 EAST SEPULVEDA BOULEVARD, CITY OF CARSON (pp. 4-8)

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