



Legislation Text

File #: 2023-0867, Version: 1

Report to Mayor and City Council

Tuesday, November 21, 2023

Consent

SUBJECT:

CONSIDER APPROVING AMENDMENT NO. 1 TO SETTLEMENT AGREEMENT BETWEEN THE CITY OF CARSON AND SHIPPERS TRANSPORT EXPRESS, INC. ("SHIPPERS") TO ALLOW SHIPPERS TO OPERATE ITS CURRENT USE AT THE 40 ACRES LOCATION SITE ON THE SOUTH SIDE OF SEPULVEDA BOULEVARD JUST EAST OF WILMINGTON AVENUE, OWNED BY MARATHON PETROLEUM (CITY COUNCIL)

I. SUMMARY

City and Shippers entered into a Settlement Agreement dated December 28, 2021 ("Agreement") whereby Shippers was authorized to conduct or engage in use of the site as truck parking, container parking, and chassis storage ("Use") until the Compliance Deadline of January 1, 2024. The Agreement provides that in the event Shippers is unable to meet the Compliance Deadline, the City Council may, in its sole and unfettered discretion, extend the Compliance Deadline by up to two calendar years, in exchange for the compensation and other additional reasonable conditions. Shippers' position is that due to industry conditions, it is unable to meet the Compliance Deadline and has made a timely written request to extend the Compliance Deadline.

Staff is proposing an amendment to the Agreement granting a two-year extension of the Compliance Deadline, to January 1, 2026, provided Shippers:

- Files a complete application with the City for entitlements (i.e. a Conditional Use Permit) for Shippers' Use within one (1) year (i.e., by January 1, 2025);
- Limits the Use to 40 acres of the Property, rather than the 60 acres originally authorized under the Agreement;
- Continues to pay the City at the rate of \$1,000,000 per annum (payable in quarterly installments of \$250,000, with each installment payment due within thirty (30) days following conclusion of the applicable calendar quarter) for the two-year extension period, unless the entitlements are approved prior to the conclusion of the two-year extension period, in which event the Agreement shall automatically terminate upon effectiveness of the entitlements; and

- If the entitlements are denied, Shippers must vacate the site no later than January 1, 2027 but shall continue to pay the City the quarterly \$250,000 installments until the site is vacated.

Exhibit 1 includes the proposed Amendment No. 1 to the Settlement Agreement between the City of Carson and Shippers that lays out the process and timelines for Shippers to file the necessary entitlement application(s) and for the City to take action on them.

II. RECOMMENDATION

TAKE the following action:

1. **APPROVE** Amendment No. 1 to Settlement Agreement between the City of Carson and Shippers Transport Express, Inc. to allow Shippers Transport Express Inc. to continue to operate its current use on the 40 acres owned by Marathon Petroleum on the South Side of Sepulveda Boulevard just east of Wilmington Avenue.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate and that is consistent with applicable laws.

IV. BACKGROUND

The City and Shippers entered into a Settlement Agreement dated December 28, 2021 whereby Shippers was authorized to conduct or engage in the Use until the Compliance Deadline, which pursuant to Section 3(a) of the Agreement is January 1, 2024, in exchange for the consideration set forth in the Agreement.

Section 4(a) of the Agreement provides that in the event Shippers is unable to meet the Compliance Deadline, the City Council may, in its sole and unfettered discretion, extend the Compliance Deadline by up to two calendar years, in exchange for the compensation and other additional reasonable conditions and requirement that City may impose pursuant to Section 4(c), provided Shippers makes a written request to extend the Compliance Deadline not later than 90 calendar days prior thereto in accordance with Section 4(b).

Shippers' position is that due to industry conditions, it is unable to meet the Compliance Deadline. Shippers made a timely written request to extend the Compliance Deadline pursuant to Section 4(b).

If the entitlements proposed in the Amendment are approved prior to the conclusion of the two-year extension period, the Agreement shall automatically terminate upon effectiveness of the entitlements and Shippers will no longer be required to make the quarterly payments to the City.

V. FISCAL IMPACT

The proposed agreement if approved will result in the City continuing to receive one million dollars (\$1,000,000) per year from Shippers as contemplated in the settlement agreement. The funds will be deposited to the General Fund (Account No.101-99-999-999-4920) and could be allocated for future capital improvement projects in the vicinity of the site as deemed appropriate by the City.

VI. EXHIBITS

1. Proposed Amendment No. 1 to Settlement Agreement between the City of Carson and Shippers Transport Express, Inc. (pgs. 4-9)

Prepared by: City Attorney's Office, Saied Naaseh, Community Development Director