



Legislation Details (With Text)

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Title: CONSIDER ADOPTION OF COMPLIANCE RESOLUTION NO. 17-120 & APPROVAL OF REIMBURSEMENT AGREEMENT WITH SYWEST DEVELOPMENT, LLC AND SOUTH BAY CARSON, LLC (CITY COUNCIL)

Sponsors:

Indexes:

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Attachments: 1. SyWest Compliance Resolution.pdf, 2. Reimbursement Agreement

Date	Ver.	Action By	Action	Result
9/5/2017	1	City Council		

Report to Mayor and City Council

Tuesday, September 05, 2017

Discussion

SUBJECT:

CONSIDER ADOPTION OF COMPLIANCE RESOLUTION NO. 17-120 & APPROVAL OF REIMBURSEMENT AGREEMENT WITH SYWEST DEVELOPMENT, LLC AND SOUTH BAY CARSON, LLC (CITY COUNCIL)

I. SUMMARY

During the August 28, 2017 special meeting this matter was continued.

Presented for City Council consideration is Compliance Resolution No. 17-120 and a Reimbursement Agreement between the City and SyWest Development, LLC and South Bay Carson, LLC, addressing and resolving certain issues with respect to Conditional Use Permit No. 940-13, Relocation Review No. 3047-13 and Resolution No. 13-099, which permitted, for an initial term of four (4) calendar years, the use of an approximately 24.65 acre site previously used as an organic refuse landfill, drive-in theater and auto-auction, located at 20151 South Main Street, Carson, California.

The Compliance Resolution allows and additional period of time, until October 21, 2020, within which to either discontinue the existing use(s) at this property or to bring forward for consideration plans for the development and cleanup of this property. In addition, the Reimbursement Agreement commits the property owners to fully reimbursement the City

for the cost in negotiating the terms and conditions of the Compliance Resolution.

II. RECOMMENDATION

TAKE the following actions:

1. WAIVE further reading and ADOPT Resolution No. 17-120, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR COMPLIANCE ON THE PART OF SOUTH BAY CARSON, LLC & SYWEST DEVELOPMENT, LLC, WITH RESPECT TO THE TERMS AND CONDITIONS OF CONDITIONAL USE PERMIT NO. 940-13, RELOCATION REVIEW NO. 3047-13 & RESOLUTION NO. 13-099 REGARDING ENTERPRISE RENT-A-CAR FACILITIES LOCATED ON THAT CERTAIN REAL PROPERTY WHOSE COMMON STREET ADDRESS IS 20151 SOUTH MAIN STREET, CITY OF CARSON AND AFFORDING AN EXTENDED COMPLIANCE PERIOD WITHIN WHICH TO DO SO;" and
2. APPROVE that certain REIMBURSEMENT AGREEMENT by and between the City of Carson, South Bay Carson, LLC & SyWest Development, LLC, and AUTHORIZE THE CITY MANAGER TO EXECUTE the same following approval as to form by the City Attorney.

III. ALTERNATIVES

1. DIRECT staff and the City Attorney to further review and revise the either or both the Compliance Resolution and/or the Reimbursement Agreement.
2. TAKE such other and further actions as the City Council deems appropriate consistent with the requirements of law.

IV. BACKGROUND

In 2013, South Bay Carson, LLC and SyWest Development, LLC (collectively "SyWest"), acting on behalf of Enterprise Rent-A-Car Company of Los Angeles, LLC ("Enterprise"), applied for and was granted Conditional Use Permit No. 940-13, Relocation Review No. 3047-13 and Resolution No. 13-099 (the "Original CUP") which permitted, for an initial term of four (4) calendar years, the use of an approximately 24.65 acre site previously used as an organic refuse landfill, drive-in theater and auto-auction, located at 20151 South Main Street, Carson, California (the "Property"), for the storage of rental cars, including as a regional rental car storage hub, and the relocation of certain modular office buildings on that portion of the Property zoned ML-ORL-D.

Interim Urgency Ordinance Nos. 15-1575U and 16-1578U (collectively, the "Stadium Moratorium") enacted a moratorium on the establishment, expansion, modification or new development within the six (6) planning study areas within the City of Carson. SyWest requested an extension of the Original CUP beyond October 21, 2017 and has further requested that such extension of the Original CUP be deemed subject to the "exemption" provision(s) of the Stadium Moratorium (the "CUP Extension Request").

City Staff and the City Attorney's office have reached agreement with SyWest to address and resolve the requested extension of the Original CUP. As will be detailed in this staff report, presented for City Council consideration is Compliance Resolution No. 17-120 that addresses these issues along with a Reimbursement Agreement in which SyWest has agreed to reimburse the City for the costs of these negotiations.

The Compliance Resolution provides that, in return for meeting certain conditions of the resolution, SyWest shall be afforded "an extended compliance period under the Original CUP from the effective date of this Compliance Resolution until October 31, 2020." During the term of the Compliance Resolution, SyWest will be obligated to do the following:

1. SyWest shall, on or before November 1, 2017, deposit with City, to be held in a separate City interest bearing account, a bond or other irrevocable instruction having a penal value of Three Hundred Fifty Thousand Dollars (\$350,000) as and for a "Holdover Deposit."
2. SyWest shall, on or before November 1, 2017, pay to City a one-time "2017 Heavy Vehicle Transit Fee" of One Hundred Twenty Thousand Dollars (\$120,000.00) reflecting compensation to the City for extended operations under the Extended Compliance Period between November 1, 2017 and October 31, 2018.
3. SyWest shall, on or before November 1, 2018, pay to City a one-time "2018 Heavy Vehicle Transit Fee" of One Hundred Seventy Thousand Dollars (\$170,000.00), reflecting compensation to the City for operations under the Extended Compliance Period between November 1, 2018 and October 31, 2019. City agrees that Fifty Thousand Dollars (\$50,000.00) of the "2018 Heavy Vehicle Transit Fee" shall be added to the Holdover Deposit to bring the total Holdover Deposit to Four Hundred Thousand Dollars (\$400,000.00) as of November 1, 2018.
4. SyWest shall, on or before November 1, 2019, pay to City a one-time "2019 Heavy Vehicle Transit Fee" of One Hundred Seventy Thousand Dollars (\$170,000.00), reflecting compensation to the City for operations under the Extended Compliance Period between November 1, 2019 and October 31, 2020. City agrees that Fifty Thousand Dollars (\$50,000.00) of the "2019 Heavy Vehicle Transit Fee" shall be added to the Holdover Deposit to bring the total Holdover Deposit to Four Hundred Fifty Thousand Dollars (\$450,000.00) as of November 1, 2019.

Finally, the Compliance Resolution provides that, the event that SyWest or Enterprise were to cease vehicle storage facilities or rental car hub storage facilities on or at the Property prior to the Compliance Deadline, the payments required by the Compliance Resolution would abate provided there was a **complete cessation** of any and all use of the Property for either vehicle storage facilities or rental car hub storage facilities.

V. FISCAL IMPACT

The Reimbursement Agreement commits SyWest to fully reimburse the City its costs, including staff time, if any, and legal time in negotiating and documenting the Compliance Agreement. As a consequence, there will be not direct costs to the City's General Fund.

VI. EXHIBITS

1. Resolution No. 17-120. (pgs 4-10)
2. Reimbursement Agreement. (pgs 11-19)

Prepared by: City Attorney