



Legislation Details (With Text)

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Title: CONSIDER ADOPTION OF RESOLUTION NO. 20-081 FOR SECOND AND FINAL EXTENSION FOR SYWEST DEVELOPMENT, LLC AND SOUTH BAY CARSON, LLC FOR COMPLIANCE WITH CONDITIONAL USE PERMIT NO. 940-13, RELOCATION REVIEW NO. 3047-13 AND RESOLUTION NO. 13-099 (CITY COUNCIL)

Sponsors:

Indexes:

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Attachments: 1. Exhibit No. 1 Sywest Resolution Final CUP Compliance Extension, 2. Exhibit No. 2 Amendment to Reimbursement Agreement

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

Tuesday, May 05, 2020

Discussion

SUBJECT:

CONSIDER ADOPTION OF RESOLUTION NO. 20-081 FOR SECOND AND FINAL EXTENSION FOR SYWEST DEVELOPMENT, LLC AND SOUTH BAY CARSON, LLC FOR COMPLIANCE WITH CONDITIONAL USE PERMIT NO. 940-13, RELOCATION REVIEW NO. 3047-13 AND RESOLUTION NO. 13-099 (CITY COUNCIL)

I. SUMMARY

Presented for City Council consideration is Resolution No. 20-281 for second and final extension for SyWest Development, LLC and South Bay Carson, LLC (collectively, "Sywest") for compliance with Conditional Use Permit No. 940-13, Relocation Review No. 3047-13 and Resolution No. 13-099 (collectively, 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. Currently, the compliance period ends on October 31, 2020.

The proposed Resolution allows an additional two years, until October 21, 2022, for Sywest to comply with the Original CUP. The Resolution also requires Sywest to file a complete development application with City by June 30, 2020; otherwise, the extension will

not take effect on October 31, 2020 and the vehicle storage facilities or rental car hub storage facilities uses on or at the Property must cease on October 31, 2020.

II. RECOMMENDATION

WAIVE further reading and ADOPT Resolution No. 20-281, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR A SECOND AND LAST EXTENSION FOR COMPLIANCE ON THE PART OF SOUTH BAY CARSON, LLC AND SYWEST DEVELOPMENT, LLC, WITH RESPECT TO THE TERMS AND CONDITIONS OF CONDITIONAL USE PERMIT NO. 940-13, RELOCATION REVIEW NO. 3047-13 AND 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"

III. ALTERNATIVES

1. DIRECT staff and the City Attorney to further review and revise the Resolution.
2. TAKE such other and further actions as the City Council deems appropriate consistent with the requirements of law.

IV. BACKGROUND

In 2013, 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") first adopted in 2015 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 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"). The Original CUP required that SyWest would, within three (3) years of approval of the CUP, enter into an agreement with the appropriate environmental regulatory agency ("Environmental Regulatory Agency" or "ERA") to commence steps necessary to support the cleanup and reuse of the Property for new development but staff contended that SyWest failed or refused to comply with this condition of the Original CUP. SyWest requested additional time to complete this task concurrently with City's update to its General Plan (the "ERA Dispute"). SyWest has contended and advised staff that in order to fulfill this remediation condition of the Original CUP a proposed plan for redevelopment

and long term use of the Property is required to first be processed, considered and approved by the City, and SyWest and the City desired to confirm how this ERA Dispute would be addressed moving forward.

The Original CUP also required SyWest to develop, implement, and maintain a landscaping plan to assure an aesthetically appropriate appearance surrounding the Property but staff contended that certain areas of the existing landscaping around the Property were in disrepair and needed to be replaced and SyWest requested additional time to complete this task ("Landscape Dispute").

In light of the foregoing, City and SyWest desired to fully and finally resolve the ERA Dispute, the Landscape Dispute, and the CUP Extension Request (collectively the "Disputes"), to avoid litigation arising out of such Disputes, and in furtherance of that objective, on September 5, 2017, the City Council adopted Resolution 17-120 ("Compliance Resolution") which served as an attempt to effectuate the foregoing, and which also extended the compliance period under the Original CUP until October 31, 2020 ("Compliance Period"). The Compliance Resolution required Sywest to make a series of deposits and payments with the City against which City is permitted to deduct for various reasons.

Recently, in connection with Enterprise's proposed use of the Property, Sywest has been seeking to develop the Property with two large scale industrial buildings and Sywest has hired consultants to assist in the design, environmental, and cost related issues typical of former landfill sites, and further has been prepared to enter into discussions with ERA to resolve the ERA Dispute. Sywest has also addressed the Landscape Dispute by continuing to maintain the landscaping by a professional landscape company and replacing the landscaping if they are deemed unhealthy by the landscape maintenance company; generally, the appearance of the landscaping is acceptable.

Additionally, Sywest contends that it was in the process of finalizing plans for the two industrial buildings in order to submit a package to the City's Planning Division for processing. However, prior to Sywest submittal and initiating formal discussions with the ERA, it came across an opportunity for development of a major retailer ("New Retailer") who inquired about sites in Carson. As a result, Sywest has placed discussions regarding development on hold with ERA until Sywest decides what is the best development opportunity for the site; Sywest is now asking the City for another two-year extension of time to comply with the Original CUP, which extension would give Sywest until October 21, 2022 to comply ("Extended Compliance Period").

The Resolution approving such extension ("Extended Compliance Resolution") would require Sywest to deposit monies with City as follows:

- By no later than November 1, 2020, SyWest shall pay to City a one-time "2020 Heavy Vehicle Transit Fee" of \$170,000.00, reflecting compensation to the City for operations under the Extended Compliance Period between November 1, 2020 and October 31, 2021.
- By no later than November 1, 2021, Sywest shall also pay to City a one-time "2021

Heavy Vehicle Transit Fee” of \$170,000.00, reflecting compensation to the City for operations under the Extended Compliance Period between November 1, 2021 and October 31, 2022.

- \$50,000.00 of the “2020 Heavy Vehicle Transit Fee” and \$50,000.00 of the “2021 Heavy Vehicle Transit Fee” shall be added to the Holdover Deposit to bring the total Holdover Deposit to \$500,000.00 as of November 1, 2020, and \$550,000.00 as of November 1, 2021.

Also under the Extended Compliance Resolution, but no later than June 30, 2020, SyWest would be required to file a complete development application with the City. If a complete application is not filed on or before June 30, 2020, the Extended Compliance Period extension will not take effect on October 31, 2020 and the vehicle storage facilities or rental car hub storage facilities uses on or at the Property have to cease on October 31, 2020. In other words, the Extended Compliance Resolution is not effective and the second and final extension for compliance does not take effect on November 1, 2020, if a complete development application is not filed with the City on or before June 30, 2020.

Finally, the City Council would retain sole discretion to grant one more extension to the June 30, 2020 deadline of filing a development application provided the record reflects a good faith attempt by SyWest to close a development deal and a need for more time to complete a development application. If SyWest requires an extension for the filing of the development application date, it shall notify staff in writing by 5:00 p.m. on June 8, 2020.

It should be also be noted that an amendment to Reimbursement Agreement has been signed by Sywest which will require Sywest to pay for all City costs and fees associated with the Extended Compliance Resolution and any development of the Property.

V. FISCAL IMPACT

The amendment to Reimbursement Agreement commits SyWest to fully reimburse the City its costs, including staff time, if any, and legal time in negotiating and documenting the Extended Compliance Resolution and all fees and costs associated with any development of the Property. As a consequence, there will be no direct costs to the City’s General Fund.

VI. EXHIBITS

1. Resolution No. 20-281 (pgs. 5-12)
2. Amendment to Reimbursement Agreement (pgs. 13-20)

Prepared by: City Attorney