



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MARCH 13, 2014

FROM: BUSINESS AND TRADE DEVELOPMENT

**SUBJECT: RESOLUTION NO. _____ APPROVAL OF FIRST
AMENDMENT TO FOREIGN-TRADE ZONE GENERAL PURPOSE
OPERATING AGREEMENT NO. 13-3107 BETWEEN THE CITY OF LOS
ANGELES HARBOR DEPARTMENT AND CALIFORNIA CARTAGE
COMPANY, LLC, FTZ 202, SITE 1-A**

SUMMARY:

The City of Los Angeles Harbor Department (Harbor Department), as the Foreign-Trade Zone (FTZ) grantee, establishes General Purpose Operating Agreements with FTZ operators to oversee their FTZ operations. The Harbor Department received a request from California Cartage Company, LLC (California Cartage), Site 1-A, located in Wilmington, California, to exercise their first renewal option to extend the term of their FTZ Operating Agreement No. 13-3107 (Agreement No. 13-3107) at FTZ 202, Site 1-A (Site).

Burlington Northern Santa Fe Railroad (BNSF) and City entered into a Site Preparation and Access Agreement and Permit (SPAA) granting BNSF rights to the Site. BNSF Railway licensed the Site to California Cartage on the terms and conditions set forth in the license, dated August 2, 2013 (License). California Cartage acknowledges that its only right to possess the Site arises by, through and under the License, and is governed by its terms. BNSF consents to the extension described in this resolution, as an accommodation to California Cartage in consideration of the provisions of the First Amendment (Amendment), including, without limitation, those reproduced in this Resolution. On this basis and as described in this Resolution, the staff of the Harbor Department recommends as set forth below.

The original term of Agreement No. 13-3107 was one year with two, optional one-year renewals. The original agreement commenced on June 1, 2013, and is set to expire on May 31, 2014.

Any change made to an original Operating Agreement, including any existing renewal options, requires an amendment to the agreement. Upon approval, the proposed Amendment will extend Agreement No. 13-3107 for one year to May 31, 2015 or upon the termination of the License, whichever occurs earlier. All remaining terms and conditions of Agreement No. 13-3107 shall remain in full force and effect.

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RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Approve the proposed First Amendment to Foreign-Trade Zone Operating Agreement No. 13-3107 between the City of Los Angeles Harbor Department and California Cartage Company, LLC;
2. Direct the Board Secretary to transmit the proposed First Amendment to Foreign-Trade Zone Operating Agreement No. 13-3107 to the Los Angeles City Council for approval pursuant to Section 373 of the Charter of the City of Los Angeles and Section 10.5 of the Los Angeles Administrative Code;
3. Upon approval by the City Council, authorize the Executive Director to execute and the Board Secretary to attest to the proposed First Amendment to Foreign-Trade Zone Operating Agreement No. 13-3107; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background/Context – The Foreign-Trade Zone Act of 1934, as amended (19 U.S.C. 81a-81u) was established to support U.S. commerce and create jobs by reducing import duties or excise taxes by deferring payment of duties thereby making it attractive for companies to perform some work on their products in the U.S. rather than offshore. The definition of a FTZ is a restricted access site located in the U.S. Customs and Border Protection Agency territories. The importer may defer payment of duties and other fees until the merchandise is brought into U.S. commerce for consumption.

Need for Agreement – The Harbor Department, as the grantee, is required by the FTZ Board to have an Operating Agreement with FTZ site operators (Transmittal 1). Site 1-A facilities consist of approximately 600,000 square feet of warehouse and office space on 84 acres (Transmittal 2).

This Site is owned by the Harbor Department and leased to BNSF. BNSF and California Cartage entered into a non-exclusive license agreement granting California Cartage use and occupancy of property described in the License. The License is attached to the Amendment.

California Cartage will continue to operate their warehouses under FTZ procedures. California Cartage agrees to keep its warehouses open to support the PierPass

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Program and shall notify truck drivers, truck brokers, and trucking companies that the trucks serving the container terminals must confine their routes to the designated Wilmington Truck Route.

Need for Approval – California Cartage is requesting approval from the Harbor Department to execute the proposed Amendment to extend Agreement No. 13-3107 for a term of one year or upon the termination of the License, whichever occurs earlier, to continue operating this Site as a FTZ warehouse. California Cartage receives, stores, manages inventory, and distributes consumer products, apparel, accessories, and other merchandise for sale nationally. Occasionally, the products are re-exported from the warehouse.

If a company does not obtain approval as an operator with FTZ status from the Harbor Department, they potentially have the choice of going to another FTZ in California, such as, Long Beach, San Diego, Palmdale, etc., or even going out of state. Since FTZ facilities exist in every state, companies can potentially shift its employees to work elsewhere as a result of seeking FTZ status in another location.

Harbor Department Fiscal Requirements – This proposed Amendment will not require funding by the Harbor Department. California Cartage will pay an annual fee of \$7,750 to the Harbor Department for the term of the proposed Amendment.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the proposed Amendment to Agreement No. 13-3107. The proposed Amendment would extend the existing Operating Agreement with no changes to operations. As an activity involving the amendment of an agreement to use an existing facility involving negligible or no expansion of use, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III, Section 1 (14) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

FINANCIAL IMPACT:

The Harbor Department to date has received \$5,000 in operator fees from California Cartage for the original one-year term. If the proposed Amendment is approved for the

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first extension, the Harbor Department will receive \$7,750 annually from California Cartage (per FTZ Tariff No. 2).

Although there is no direct cost to the Harbor Department arising from this proposed Board action, the Harbor Department does incur FTZ related expenses. During calendar year 2013, approximately \$60,000 was spent on outside FTZ related consulting services while \$264,000 in revenues was collected from all of the Harbor Department's FTZ operators.

CITY ATTORNEY:

The Office of the City Attorney has prepared and approved the proposed Amendment as to form and legality.

TRANSMITTALS:

1. Proposed First Amendment to FTZ Operating Agreement No. 13-3107 with California Cartage Company, LLC, FTZ 202, Site 1-A
2. California Cartage Company, LLC , FTZ 202, Site 1-A map

FIS Approval:  (initials)

CA Approval:  (initials)



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Director of Business Development



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APPROVED:



GARY LEE MOORE, P.E.
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