



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: JULY 30, 2014

FROM: BUSINESS AND TRADE DEVELOPMENT

SUBJECT: RESOLUTION NO. _____ APPROVAL OF FIRST AMENDMENT TO FOREIGN-TRADE ZONE GENERAL PURPOSE OPERATING AGREEMENT NO. 11-3017 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND NEC LOGISTICS AMERICA, INC., FTZ 202, SITE 4E

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 notification from NEC Logistics America, Inc. (NEC) that NEC merged with Nippon Express in December 2013. The new company name is Nippon Express NEC Logistics America, Inc. (Nippon NEC). The company name change requires the FTZ grantee to amend FTZ Operating Agreement No. 11-3017 (Agreement No. 11-3017). United States Customs and Border Protection (CBP) approved this company name change in March 2014. As such, Nippon NEC continues to operate FTZ general purpose warehouses in FTZ 202, Site 4E. Site 4E is located within FTZ 202, Site 4 which is owned by Watson Land Company (Watson) in Carson, California. Nippon NEC is leasing warehouses from Watson.

Also, as a part of the changes, all updated City of Los Angeles contractual provisions will be incorporated into Agreement No. 11-3017. All remaining terms and conditions of Agreement No. 11-3017 shall remain in full force and effect.

RECOMMENDATION:

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

1. Approve the proposed First Amendment to Foreign-Trade Zone Operating Agreement No. 11-3017 between the City of Los Angeles Harbor Department and NEC Logistics America, Inc.;
2. Direct the Board Secretary to transmit the First Amendment to Foreign-Trade Zone Operating Agreement No. 11-3017 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;

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3. Upon approval by the City Council, authorize the Executive Director to execute and the Board Secretary to attest to the First Amendment to Foreign-Trade Zone Operating Agreement No. 11-3017; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background and 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 CBP 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). Nippon NEC, a U.S. company, located in Carson, California employs 65 full-time and 35 part-time employees. Site 4E is located within FTZ 202, Site 4 which is owned by Watson Land Company (Watson) in Carson, California. Nippon NEC has been operating FTZ warehouses at FTZ 202, Site 4E since 2012. The facilities consist of approximately 264,000 square feet of warehouse and office space on 13.8 acres (Transmittal 2).

Nippon NEC agrees to keep its warehouses open to support the PierPass 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 – Nippon NEC is requesting approval from the Harbor Department to execute the proposed First Amendment to change its company name and continue to operate Site 4E as FTZ warehouses. Nippon NEC receives, stores, manages inventory and distributes consumer products, electronics and other merchandise for sale in the national market. Occasionally, products are re-exported from the warehouses. Site 4E is located within already designated FTZ 202, Site 4 in Carson, California. As such, this company does not require submission of an application to the FTZ Board.

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If Nippon NEC 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, Nippon NEC can potentially shift its employees to work elsewhere as a result of seeking FTZ status in another location.

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

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a proposed First Amendment to the FTZ Operating Agreement with Nippon NEC to continue to operate its site within FTZ 202, Site 4E, located in Carson, California. As an activity involving the issuance of a permit 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) in accordance with Article III Class 1 (14) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

FINANCIAL IMPACT:

If the proposed Amendment is approved, the Harbor Department will receive from Nippon NEC an annual fee of \$7,750 (per FTZ Tariff No. 2) for each year for the term of the agreement. Should the renewal options be exercised subsequent to the completion of the initial term of the agreement, compensation will also be \$7,750 per year. 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 revenue was collected from the Harbor Department FTZ operators.

Approving the proposed Amendment with Nippon NEC creates an entity that confers among other advantages, tax and operating benefits to the operator, and provides a tool for economic development. As the Harbor Department is a designated grantee of FTZs under the State of California enabling legislation, granting FTZ status to Nippon NEC allows more efficient operations and allows Nippon NEC to remain competitive.

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CITY ATTORNEY:

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

TRANSMITTALS:

1. Proposed First Amendment to FTZ Operating Agreement No. 11-3017 with NEC Logistics America, Inc., FTZ 202, Site 4E
2. FTZ 202, Site 4E Map

FIS Approval:  (initials)
CA Approval:  (initials)


MICHAEL DiBERNARDO
Director of Business Development


DAVID L. MATHEWSON
Interim Deputy Executive Director

APPROVED:


EUGENE D. SEROKA
Executive Director

M. Morimoto