



THE PORT
OF LOS ANGELES
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: MARCH 21, 2018

FROM: CARGO MARKETING

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

SUMMARY:

Staff request the approval of the Foreign-Trade Zone (FTZ) Operating Agreement between the City of Los Angeles Harbor Department (Harbor Department) and California Cartage Company LLC (California Cartage) to continue operating its warehouse within FTZ 202, Site 1A, located at 2401 East Pacific Highway, Wilmington, California 90744. The Harbor Department, as the FTZ grantee, establishes General Purpose Operating Agreements with FTZ operators to oversee their FTZ operations.

Currently, the Harbor Department and California Cartage have an FTZ Operating Agreement No. 17-3536 which will expire on April 29, 2018. California Cartage wishes to continue operating its warehouse as a FTZ warehouse thus, the Harbor Department needs to execute a new Operating Agreement (Agreement) as required by the FTZ Board. Site 1A consist of a warehouse and office space of approximately 600,000 square feet on 84 acres located about five miles from the Port of Los Angeles. California Cartage will be operating its warehouse under FTZ procedures as a multi-usage site. This proposed Agreement will not require funding by the Harbor Department. If the proposed Agreement is approved, the Harbor Department will receive \$7,750 from California Cartage (per FTZ Tariff No. 2).

The proposed Agreement is for a term of one year. The Board has the right to terminate, without cause, the Agreement upon one hundred and eighty days written notice.

RECOMMENDATION:

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

1. Find that the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1 (14), of the Los Angeles City CEQA Guidelines;

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2. Approve the proposed Foreign-Trade Zone Operating Agreement between the City of Los Angeles Harbor Department and California Cartage Company LLC;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the proposed Foreign-Trade Zone Operating Agreement; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background and Context – The FTZ 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 an FTZ is a restricted access site located in the U.S. Customs and Border Protection (CBP) territories. The importer may defer payment of duties and other fees until the merchandise is brought into the U.S. for consumption. The Harbor Department, as the grantee, is required by the FTZ Board to have an Operating Agreement with FTZ site operators (Transmittal 1).

Site Occupancy - Burlington Northern Santa Fe Railroad (BNSF) and the City of Los Angeles entered into a Site Preparation and Access Agreement and Permit (SPAA) granting BNSF rights to the site. BNSF licensed the Site to California Cartage on the terms and conditions set forth in the license dated August 2, 2013 (License) (Transmittal 2). 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 FTZ operating agreement (Agreement), including, without limitation, those reproduced in this resolution. If the Harbor Department and BNSF decided to revoke the SPAA granting BNSF rights to the site within the term of the FTZ operating agreement, Harbor Department will require an amendment to the agreement. On this basis and as described in this resolution, the staff of the Harbor Department recommends approval.

Past FTZ Agreement – California Cartage is a U.S. company with its head office located in Long Beach, California, employing approximately 29 full-time and part-time employees working within the FTZ activated area. California Cartage has continually operated a FTZ warehouse at 2401 East Pacific Coast Highway, Wilmington, California FTZ 202, Site 1A since 1995. This facility consists of approximately 600,000 square feet of warehouse and office space on 84 acres (Transmittal 3) and is within the FTZ 202 service area (Transmittal 4). Cal Cartage's current FTZ Agreement No. 17-3536 expires on April 29, 2018.

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FTZ Agreement – California Cartage is requesting approval from the Harbor Department to execute the proposed successor Agreement to operate Site 1A as a multi-usage FTZ warehouse 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, re-labels, repackages, manages inventory, and distributes various imported products which will be distributed for U.S. consumption. Occasionally, products are re-exported from this warehouse. The FTZ Agreement also retains the Board's right to terminate the Agreement for any reason upon one-hundred and eighty (180) days written notice.

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, a company can potentially shift its operations elsewhere.

California Cartage has in the past and shall follow the rules and procedures as outlined in the Department of Homeland Security's FTZ manual, such as providing a secured area within the FTZ.

Harbor Department Fiscal Requirements –This proposed Agreement 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 Agreement.

Other Issues – The existence of pending litigation and claims against Cal Cartage does not change Staff's recommendation to proceed with this proposed Agreement. Staff has found Cal Cartage's application for a successor FTZ Operating Agreement is consistent with the requirements of an FTZ operator under the FTZ Act and the FTZ Board regulations that require this Board uniformly and consistently apply the process to all FTZ applicants.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a proposed Agreement with California Cartage, to operate its site within the FTZ 202 service area at Site 1A, located in Wilmington, which an activity is involving the issuance of a permit to use an existing facility involving negligible or no expansion of use. Therefore, the Director of Environmental Management has determined that the proposed action is categorically 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.

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FINANCIAL IMPACT:

If the proposed Agreement is approved, the Harbor Department will receive \$7,750 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 2017, approximately \$35,750 was spent on outside FTZ related consulting services, while \$337,172 in revenue was collected from the Harbor Department FTZ operators.

CITY ATTORNEY:

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

TRANSMITTALS:

1. Proposed FTZ Operating Agreement for California Cartage Company LLC FTZ 202, Site 1A
2. Non-exclusive License Agreement for California Cartage and Burlington Northern and Santa Fe Railway
3. FTZ 202, Site 1A Map
4. FTZ 202, Service Area Map

FIS Approval:  (initials)

CA Approval:  (initials)



ERIC CARIS
Director of Cargo Marketing



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Deputy Executive Director

APPROVED:


FOL

EUGENE D. SEROKA
Executive Director