



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: APRIL 16, 2014

FROM: BUSINESS AND TRADE DEVELOPMENT

**SUBJECT: RESOLUTION NO. _____ APPROVAL OF SECOND
AMENDMENT TO FOREIGN-TRADE ZONE GENERAL PURPOSE
OPERATING AGREEMENT NO. 2340 BETWEEN THE CITY OF LOS
ANGELES HARBOR DEPARTMENT AND CUSTOMS AIR
WAREHOUSE, INC., FTZ 202, SITE 2A**

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 Customs Air Warehouse, Inc., (Customs Air), Site 2A, located in Los Angeles, California, to exercise its second renewal option to extend the term of its FTZ Operating Agreement No. 2340 (Agreement No. 2340) at FTZ 202, Site 2A. Customs Air provides international logistic services. The original term of the agreement is five years with three, five-year renewal options. The original agreement commenced June 23, 2004, and there was a renewal on June 23, 2009, which is set to expire on June 22, 2014.

Any change made to an original Operating Agreement, including existing renewal options, requires an amendment to the agreement. Upon approval, the proposed Second Amendment will extend Agreement No. 2340 for five years through June 22, 2019. Also, as part of the changes, all updated City of Los Angeles contractual provisions will be incorporated into Agreement No. 2340. All remaining terms and conditions of Agreement No. 2340 shall remain in full force and effect.

RECOMMENDATION:

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

1. Approve the proposed Second Amendment to Foreign-Trade Zone Operating Agreement No. 2340 between the City of Los Angeles Harbor Department and Customs Air Warehouse, Inc.;
2. Direct the Board Secretary to transmit the proposed Second Amendment to Foreign-Trade Zone Operating Agreement No. 2340 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;

DATE: APRIL 16, 2014

PAGE 2 OF 4

SUBJECT: GENERAL PURPOSE OPERATING AGREEMENT WITH CUSTOMS AIR WAREHOUSE, INC., FTZ 202, SITE 2A

3. Upon approval by the City Council, authorize the Executive Director to execute and the Board Secretary to attest to the proposed Second Amendment to Foreign-Trade Zone Operating Agreement No. 2340; 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). Customs Air, a U.S. company, located in Los Angeles, California employs approximately eight full-time employees. Customs Air has continually operated a FTZ warehouse at FTZ 202, Site 2A since 1996. Site 2A facilities consist of approximately 37,000 square feet of warehouse and office space on 1.5 acres (Transmittal 2).

Customs Air will continue to operate its warehouses under FTZ procedures. Customs Air 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 – Customs Air is requesting approval from the Harbor Department to execute the proposed Second Amendment to extend Agreement No. 2340 for a term of five years in order to continue operating this site as a FTZ warehouse. Customs Air 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. The Second Amendment also incorporates updated City of Los Angeles contractual provisions standard in Harbor Department contracts.

If Customs Air 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

DATE: APRIL 16, 2014

PAGE 3 OF 4

SUBJECT: GENERAL PURPOSE OPERATING AGREEMENT WITH CUSTOMS AIR WAREHOUSE, INC., FTZ 202, SITE 2A

facilities exist in every state, Customs Air can potentially shift its employees to work elsewhere as a result of seeking FTZ status in another location.

Harbor Department Fiscal Requirements – This proposed Second Amendment will not require funding by the Harbor Department. Customs Air will pay an annual fee of \$7,750 to the Harbor Department for each year of the five-year term of the proposed Second Amendment.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the proposed Second Amendment to Agreement No. 2340 between the Harbor Department and Customs Air. The proposed Second 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 \$50,000 (per FTZ Tariff No. 1) in total annual fees from Customs Air for the original five-year term and first extended five-year term. If the proposed Second Amendment is approved, the Harbor Department will receive from Customs Air \$7,750 annually (per FTZ Tariff No. 2) for five years.

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.

Approving the proposed Second Amendment with Customs Air creates an entity that confers among other advantages, tax and operating benefits to the operator, and

DATE: APRIL 16, 2014

PAGE 4 OF 4

SUBJECT: GENERAL PURPOSE OPERATING AGREEMENT WITH CUSTOMS AIR WAREHOUSE, INC., FTZ 202, SITE 2A

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 Customs Air allows more efficient operations and allows Customs Air to remain competitive.

CITY ATTORNEY:

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

TRANSMITTALS:

1. Proposed Second Amendment to FTZ Operating Agreement No. 2340 with Customs Air Warehouse, Inc. FTZ 202, Site 2A
2. Customs Air Warehouse, Inc., FTZ 202, Site 2A map

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



MICHAEL DiBERNARDO
Director of Business Development



DAVID L. MATHEWSON
Interim Deputy Executive Director

APPROVED:



GARY LEE MOORE, P.E.
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