



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

DATE: JANUARY 14, 2014

FROM: BUSINESS & TRADE DEVELOPMENT

**SUBJECT: RESOLUTION NO. _____ APPROVAL OF FIRST
AMENDMENT TO FOREIGN-TRADE ZONE DEVELOPER AGREEMENT
NO. 08-2723 BETWEEN THE CITY OF LOS ANGELES HARBOR
DEPARTMENT AND COGNAC PACIFIC GATEWAY, LLC - SITE 7**

SUMMARY:

The City of Los Angeles Harbor Department (Harbor Department), as the Foreign-Trade Zone (FTZ) grantee, establishes developer agreements with FTZ site owners to oversee their FTZ developments. The Harbor Department received a request from Cognac Pacific Gateway, LLC (Cognac) to execute its first renewal option to extend the term of FTZ Developer Agreement No. 08-2723 (Agreement) at FTZ 202, Site 7, located in Torrance, California. Cognac is a real estate investment firm whose principal address is located in San Francisco, California. The original term of the Agreement is five years with three, five-year renewal options. The original Agreement commenced on February 1, 2009 and is set to expire on January 31, 2014.

Any change made to an original developer agreement, including existing renewal options, requires an amendment to the agreement. Upon approval, the proposed First Amendment (Amendment) will extend the Agreement for five years through January 31, 2019. Also, Cognac recently notified the Harbor Department that some of the buildings shown in the original attachment map are no longer owned by Cognac. A newly revised site map clearly outlines new property lines. All remaining terms and conditions of the Agreement 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 Developer Agreement No. 08-2723 between the City of Los Angeles Harbor Department and Cognac Pacific Gateway, LLC;
2. Direct the Board Secretary to transmit the proposed First Amendment to Foreign-Trade Zone Developer Agreement No. 08-2723 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 proposed First Amendment to Foreign-Trade Zone Developer Agreement No. 08-2723; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background and Context – The Foreign-Trade Zone Act of 1934, as amended, (19 U.S.C. 831a-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 territories. The importer may defer payment of duties and other fees until the merchandise is brought into U.S. commerce for consumption.

Need for Amendment – The Harbor Department, as the grantee, is required by the FTZ Board to have a developer agreement with FTZ site owners. The Harbor Department received a request from Cognac to exercise its first renewal option to extend the term of its Developer Agreement at FTZ 202, Site 7 (Transmittal 1). In addition, Cognac recently notified the Harbor Department that some of the buildings shown in the original map are no longer owned by Cognac. The new site boundary necessitates an updated site map of Site 7 clearly outlining new property lines. (Transmittal 2).

Need for Approval – Cognac is requesting approval from the Harbor Department to execute the proposed Amendment to extend Agreement No. 08-2723 for a term of five years in order to continue maintaining FTZ status for this property. FTZ status would be lost without an approved amendment to the Developer Agreement for the renewal as required by the FTZ Board. This is an administrative requirement for the Harbor Department.

If Cognac does not obtain approval as a developer to maintain FTZ status of this site from the Harbor Department, it will not be able to offer additional incentives to attract new business to the Los Angeles economic area. Its tenants potentially have the choice of going to another FTZ in California such as Long Beach, San Diego, Palmdale, or even going out of state. Since FTZ facilities exist in every state, Cognac's tenants could potentially shift its employees to other FTZ facilities if this Amendment to its Development Agreement is not approved.

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Harbor Department Fiscal Requirements – This proposed Amendment will not require funding by the Harbor Department.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the Amendment to the Developer Agreement with Cognac, as the landowner of FTZ 202, Site 7, to extend the term of the Agreement. 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 the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article III, Class 1(14) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

Approval of the proposed Amendment will have no employment impact.

FINANCIAL IMPACT:

The applicant has paid an initial application fee of \$2,500 to the Harbor Department. When the site is activated, each site operator will pay the Harbor Department a \$5,000 activation fee and a \$7,750 annual fee (per FTZ Tariff No. 2). No Harbor Department funds are required for the actions granted by this Board item.

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 whereas \$264,000 in revenues was collected from all FTZ operators.

Approving the proposed Amendment with Cognac 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 an operator allows more efficient operations and allows Cognac to remain competitive.

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CITY ATTORNEY:


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

TRANSMITTALS:

1. Proposed First Amendment to FTZ Developer Agreement No. 08-2723
2. FTZ 202, Site 7 site 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.
Interim Executive Director

M. Morimoto