



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 6, 2014

FROM: BUSINESS AND TRADE DEVELOPMENT

**SUBJECT: RESOLUTION NO. _____ APPROVAL OF FIRST
AMENDMENT TO FOREIGN-TRADE ZONE GENERAL PURPOSE
OPERATING AGREEMENT NO. 09-2749 BETWEEN THE CITY OF LOS
ANGELES HARBOR DEPARTMENT AND ASK MARINE, INC., FTZ 202,
SITE 15**

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 ASK Marine, Inc. (ASK), Site 15, located in Wilmington, California, to exercise its first renewal option to extend the term of its FTZ Operating Agreement No. 09-2749 (Agreement No. 09-2749) at FTZ 202, Site 15. ASK provides international logistic and warehouse services. The original term of the agreement is five years with three, five-year renewal options. The original agreement commenced October 1, 2009 and is set to expire on September 30, 2014.

Any change made to an original Operating Agreement, including existing renewal options, requires an amendment to the agreement. Upon approval, the proposed First Amendment will extend Agreement No. 09-2749 for five years through September 30, 2019. Also, as part of the changes, all updated City of Los Angeles contractual provisions will be incorporated into Agreement No. 09-2749. All remaining terms and conditions of Agreement No. 09-2749 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. 09-2749 between the City of Los Angeles Harbor Department and ASK Marine, Inc.;
2. Direct the Board Secretary to transmit the proposed First Amendment to Foreign-Trade Zone Operating Agreement No. 09-2749 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: MAY 6, 2014

PAGE 2 OF 4

SUBJECT: GENERAL PURPOSE OPERATING AGREEMENT WITH ASK MARINE, INC., FTZ 202, SITE 15

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. 09-2749; 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). ASK, a U.S. company, located in Wilmington, California employs approximately eight full-time employees. ASK has continually operated a FTZ warehouse at FTZ 202, Site 15 since 2009. Site 15 facilities consist of approximately 159,865 square feet of warehouse and office space on 4 acres (Transmittal 2). ASK is leasing this property from Wilmington Storage Partners, L.P., Pacific Palisades, CA 90272

ASK will continue to operate its warehouses under FTZ procedures. ASK 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 – ASK is requesting approval from the Harbor Department to execute the proposed First Amendment to extend Agreement No. 09-2749 for a term of five years in order to continue operating this site as a FTZ warehouse. ASK receives, stores, manages inventory, and distributes machineries, consumer products, and other merchandise for sale nationally. Occasionally, the products are re-exported from the warehouse. The First Amendment also incorporates updated City of Los Angeles contractual provisions standard in Harbor Department contracts.

DATE: MAY 6, 2014

PAGE 3 OF 4

SUBJECT: GENERAL PURPOSE OPERATING AGREEMENT WITH ASK MARINE, INC., FTZ 202, SITE 15

If ASK 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, ASK 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. ASK will pay an annual fee of \$7,750 to the Harbor Department for each year of the five-year term of the proposed First Amendment.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the proposed First Amendment to Agreement No. 09-2749 between the Harbor Department and ASK. The proposed First 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 \$25,000 (per FTZ Tariff No. 1) in annual fees from ASK for the original five-year term. If the proposed First Amendment is approved, the Harbor Department will receive from ASK \$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.

DATE: MAY 6, 2014

PAGE 4 OF 4

SUBJECT: GENERAL PURPOSE OPERATING AGREEMENT WITH ASK MARINE, INC., FTZ 202, SITE 15

Approving the proposed First Amendment with ASK 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 ASK allows more efficient operations and allows ASK to remain competitive.

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. 09-2749 with ASK Marine, Inc., FTZ 202, Site 15
2. ASK Marine, Inc., FTZ 202, Site 15 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

Author: M. Morimoto