



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 30, 2012

FROM: BUSINESS & TRADE DEVELOPMENT

**SUBJECT: RESOLUTION NO. _____ APPROVAL OF FIRST
AMENDMENT FOR FOREIGN-TRADE ZONE OPERATING
AGREEMENT NO. 08-2729 BETWEEN THE CITY OF LOS ANGELES
HARBOR DEPARTMENT AND HOWARD HARTRY INC., SITE 1C**

SUMMARY:

In May 2009, the City of Los Angeles Harbor Department (Harbor Department) entered into Foreign-Trade Zone (FTZ) Operating Agreement No. 08-2729 (Agreement No. 08-2729) with Howard Hartry Inc. (Howard Hartry) to operate FTZ 202, Site 1C in Wilmington, California. The term of the agreement is five years with three, five-year renewal options. Agreement No. 08-2729 commenced on May 1, 2009 and is set to expire on April 30, 2014. This site was approved by the FTZ Board in May 2004 by FTZ Board Order 1331 as a part of FTZ 202 expansion application under Site 1.

FTZ 202 has grown rapidly and as a result site numbers are not organized consistently. In order to solve this issue, the FTZ Board began organizing and renumbering sites for consistency. In November 2010, the FTZ Board renumbered Site 1C to Site 27. Any change made to an original operating agreement between the Harbor Department and operator requires an amendment to the agreement. The Harbor Department is also required by U.S. Customs and Border Protection (CBP) to amend Agreement No. 08-2729 to change the site number. The proposed First Amendment (Amendment) will approve the site number change. Except as amended, all remaining terms and conditions of Agreement No. 08-2729 shall remain in full force and effect. There is no cost to the Harbor Department if approved.

RECOMMENDATION:

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

1. Approve the proposed First Amendment to Foreign-Trade Zone Operating Agreement No. 08-2729 between the City of Los Angeles Harbor Department and Howard Hartry Inc.;
2. Direct the Board Secretary to transmit the proposed First Amendment 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 Operating Agreement No. 08-2729; and

4. Adopt Resolution No. _____.

DISCUSSION:

Background – 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.

On July 14, 2011, the Board approved an application to the FTZ Board to change FTZ management framework from a Traditional Site Framework to an Alternative Site Framework (ASF). On January 19, 2012, the Harbor Department filed an ASF application with the FTZ Board. The ASF is for grantees that choose to participate for designation and managing general purpose FTZ sites in an efficient manner. All of our current and future FTZ general purpose operators will benefit under the ASF's new streamlined process with quicker approval periods and simplified application requirements.

Need for Agreement – FTZ 202, Site 1C has been renumbered to FTZ 202, Site 27 by the FTZ Board. The site number change requires an amendment to Agreement No. 08-2729 (Transmittal 1) for FTZ 202, Site 27 (Transmittal 2).

Need for Approval – Howard Hartry is requesting approval for an amendment for the site number change. This is an administrative requirement for the Harbor Department.

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

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ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Amendment to a FTZ Operating Agreement between the Harbor Department and Howard Hartry Inc. to reflect a change to the FTZ site number. 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:

Approval of the proposed Amendment will have no direct employment impact.

FINANCIAL IMPACT:

If the proposed Amendment is approved, the Harbor Department will receive \$5,000 (per FTZ Tariff No. 1) in FTZ fees per year for five years from Howard Hartry. Should the renewal options be exercised subsequent to the completion of the initial term of the Agreement, compensation will also be \$5,000 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 2011, approximately \$80,000 was spent on outside FTZ related consulting services while \$149,000 in revenues was collected from all of the Harbor Department's FTZ operators.

Approving the proposed Amendment with Howard Hartry 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 Howard Hartry allows more efficient operations and allows Howard Hartry to remain competitive.

If Howard Hartry does not obtain approval of the Amendment from the Harbor Department, CBP can potentially halt their FTZ operations.

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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 of FTZ Operating Agreement No. 08-2729, FTZ 202, Site 27
2. Howard Hartry, FTZ 202, Site 27 site map

FIS Approval: ef (initials)

CA Approval: TM (initials)



KRAIG JONDLE
Director of Business & Trade Development



FOR KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

M. Morimoto