



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: JULY 10, 2012

FROM: BUSINESS & TRADE DEVELOPMENT

SUBJECT: RESOLUTION NO. _____ APPROVAL OF FIRST AMENDMENT TO FOREIGN-TRADE ZONE GENERAL PURPOSE OPERATING AGREEMENT NO. 2606 BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND NIPPON EXPRESS U.S.A., INC. FTZ 202, SITE 7B

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 Nippon Express U.S.A., Inc. (Nippon) located in Torrance, California, to exercise their first renewal option to extend their FTZ Operating Agreement No. 2606 (Agreement No. 2606) at FTZ 202, Site 7B. The original term of the agreement is five years with three, five-year renewal options. The original agreement commenced August 1, 2007 and is set to expire on July 31, 2012.

Any change made to an original operating agreement between the Harbor Department and operators requires an amendment to the agreement. Upon approval, the First Amendment (Amendment) will extend Agreement No. 2606 for five years through to July 31, 2017. Also, as part of the changes, all updated City of Los Angeles contractual provisions will be incorporated into Agreement No. 2606. All remaining terms and conditions of Agreement No. 2606 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. 2606 between the City of Los Angeles Harbor Department and Nippon Express U.S.A., 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 Extension to Foreign-Trade Zone Operating Agreement No. 2606; 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 U.S. Customs and Border Protection territories. The importer may defer payment of duties and other fees until the merchandise is brought into the U.S. market 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. FTZ 202, Site 7B (Transmittal 1) facilities consist of three buildings totaling approximately 300,000 square feet of warehouse and office space on 93 acres. All operators shall follow rules and procedures as outlined in the Department of Homeland Security's FTZ manual, such as providing a secured area within the FTZ. Nippon 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 – Nippon is requesting approval of proposed Amendment (Transmittal 2) from the Harbor Department to extend Agreement No. 2606 for another term of five years, to continue to operate this site as a FTZ warehouse and distribution center for consumer products, office products, machineries, and other merchandise for sale in the national market. Occasionally, the products are re-exported from the warehouse. Nippon employs approximately 25 full-time employees and 22 part-time employees.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the First Amendment to Agreement No. 2606 between the Harbor Department and Nippon. The proposed First Amendment would extend the term for Agreement No. 2606 with no changes to operations. As an activity involving the amendment of an agreement to use an existing facility involving negligible

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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 with Nippon to extend the term of Agreement No. 2606 will have no direct employment impact for the five-county region.

FINANCIAL IMPACT:

The Harbor Department to date has received \$25,000 in operator fees from Nippon for the original five-year term. If the proposed Amendment is approved for the first extension, the Harbor Department will receive \$5,000 annually (per FTZ Tariff No. 1) in fees for the term August 1, 2012 to July 31, 2017. Total fees collected for the agreement through the end of this first five-year extension will be \$50,000. 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 Nippon 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 Nippon allows more efficient operations and allows Nippon to remain competitive.

If not approved, the Harbor Department will forgo \$5,000 a year in fees. If Nippon does not obtain approval 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, Nippon can potentially shift its employees to work elsewhere.

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CITY ATTORNEY:

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

TRANSMITTALS:

1. Nippon Express U.S.A., Inc., FTZ 202, Site 7B map
2. Proposed First Amendment to FTZ Operating Agreement No. 2606 with Nippon Express U.S.A., Inc., FTZ 202, Site 7B



KRAIG JONDLE
Director of Business & Trade Development

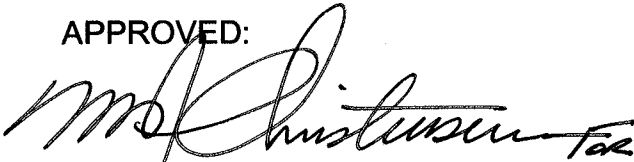
FIS Approval:  (initials)

CA Approval:  (initials)



KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

M. Morimoto