



425 S. Palos Verdes Street Post Office Box 151 San Pedro, CA 90733-0151 TEL/TDD 310 SEA-PORT www.portoflosangeles.org

Antonio R. Villaraigosa

Mayor, City of Los Angeles

Board of Harbor
Commissioners

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Sung Won Sohn, Ph.D.

Geraldine Knatz, Ph.D.

Executive Director

August 21, 2012

Honorable Members of the
City Council of the
City of Los Angeles

CD No. 15

Attention: Mr. Michael Espinosa, City Clerk's Office

SUBJECT: RESOLUTION NO. 12-7355 – 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, STE 7B

Pursuant to Section 373 of the City Charter, enclosed for your approval is a First Amendment to Agreement No. 2606 between the City of Los Angeles Harbor Department and Nippon Express U.S.A., Inc. The First Amendment, assigned Harbor Department Agreement No. 12-2606-A, was approved at the July 19, 2012 meeting of the Board of Harbor Commissioners.

RECOMMENDATION:

1. The City Council approve the proposed First Amendment to Agreement No. 2606 between the City of Los Angeles Harbor Department and Nippon Express U.S.A., Inc.;
2. Adopt the determination by the Los Angeles Harbor Department 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; and
3. Return to the Board of Harbor Commissioners for further processing.

Respectfully Submitted,

KORLA G. TONDREAULT
Commission Secretary

cc: Trade, Commerce, & Tourism Committee
Councilman Rosendahl, encls.
Councilman LaBonge, encls.
Councilman Buscaino, encls.
Christine Yee Hollis, CLA, encls.

Alvin Newman, CAO, encls.
Lisa Schechter, CD4, encls.
Aaron Gross, Government Affairs, encls.
Robert Henry, encls.
Mandy Morales, Mayor's Office, encls.

RECOMMENDATION APPROVED;
RESOLUTION NO. 12-7355 ADOPTED; AND
AGREEMENT NO. 12-2606-A APPROVED
BY THE BOARD OF HARBOR COMMISSIONERS



Executive Director's
Report to the

Board of Harbor Commissioners

JULY 19, 2012

Koslin L. Tondreault
SECRETARY

DATE: JULY 10, 2012

FROM: BUSINESS & TRADE DEVELOPMENT

SUBJECT: RESOLUTION NO. 12-7355 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;

DATE: JULY 10, 2012

PAGE 2 OF 4

SUBJECT: FIRST AMENDMENT TO GENERAL PURPOSE OPERATING AGREEMENT WITH NIPPON EXPRESS U.S.A., INC., FTZ 202, SITE 7B

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. 12-7355.

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

DATE: JULY 10, 2012

PAGE 3 OF 4

SUBJECT: FIRST AMENDMENT TO GENERAL PURPOSE OPERATING AGREEMENT WITH NIPPON EXPRESS U.S.A., INC., FTZ 202, SITE 7B

~~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.

DATE: JULY 10, 2012

PAGE 4 OF 4

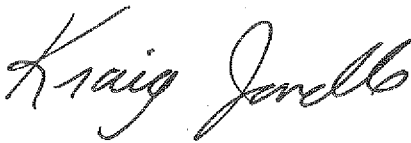
SUBJECT: FIRST AMENDMENT TO GENERAL PURPOSE OPERATING AGREEMENT WITH NIPPON EXPRESS U.S.A., INC., FTZ 202, SITE 7B

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

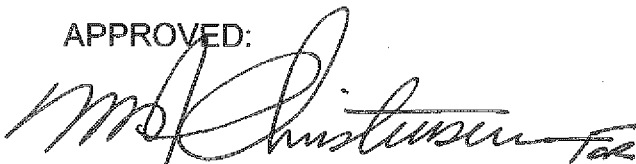
FIS Approval:  (initials)

CA Approval:  (initials)



KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

M. Morimoto

FTZ Site 202 - Site 7B Nippon Express USA, Inc.



Harbor Department
Planning and Economic Development
Map Produced 05/2012



FIRST AMENDMENT TO AGREEMENT NO. 2606
BETWEEN THE CITY OF LOS ANGELES AND
NIPPON EXPRESS U.S.A. INC.

THIS FIRST AMENDMENT to Agreement No. 2606 is made between the CITY OF LOS ANGELES, a municipal corporation (hereinafter called "City"), acting by and through its Board of Harbor Commissioners (hereafter called "Board"), and NIPPON EXPRESS U.S.A. INC. (hereafter called "Operator").

WHEREAS, City and Operator wish to extend the Term of Agreement No. 2606 an additional five (5) years with three five year extensions; and

WHEREAS, City and Operator also agree to add and update provisions to this Agreement;

NOW, THEREFORE, BE IT RESOLVED, that Agreement No. 2606 between the CITY OF LOS ANGELES and NIPPON EXPRESS U.S.A. INC., be hereby amended as follows:

1. TABLE OF CONTENTS, ARTICLE VI. - ADMINISTRATION AND OPERATION OF ZONE, a new section title is added to read the following:

"6.04 Wilmington Truck Route"

2. TABLE OF CONTENTS, ARTICLE XIV. - INDEMINIFICATION, INSURANCE, BONDING AND PAYMENT OF OBLIGATIONS, section 14.01 Indemnification and 14.02 Notification of Miscellaneous Obligations have been changed and shall be replaced with the following Article and section titles and new section titles 14.03 to 14.13 as set forth below are hereby added:

"ARTICLE XIV. - INDEMINIFICATION AND INSURANCE

- 14.01 Indemnity for General Liability
- 14.02 Back-to-back Bond
- 14.03 General Liability Insurance
- 14.04 Automobile Liability Insurance
- 14.05 Workers' Compensation
- 14.06 Carrier Requirements
- 14.07 Notice of Cancellation
- 14.08 Copies of Policies
- 14.09 Modification of Coverage
- 14.10 Renewal of Policies
- 14.11 Right to Self-Insure
- 14.12 Accident Reports
- 14.13 Notification of Miscellaneous Obligations"

3. TABLE OF CONTENTS, ARTICLE XVI. – MISCELLANEOUS PROVISIONS, a new section title is added to read the following:

"16.19 Small Business Development Program"

4. ARTICLE II. AUTHORITY GRANTED/ACCEPTED, TERM AND AGREEMENT, Section 2.03 Term of Agreement, subsection A. Term and Renewal, the initial term of this Agreement shall be extended an additional five (5) years with three five year extensions to begin on August 1, 2012 and ending on July 31, 2017.

5. ARTICLE VI. ADMINISTRATION AND OPERATION OF ZONE shall include the following section and language:

"6.04 Wilmington Truck Route

It is recognized by both parties that the Operator does not directly control the trucks serving the Port. However, the Operator shall notify truck drivers, truck brokers and trucking companies that trucks serving FTZ warehouses and originating in the Port of Los Angeles must confine their route to the designated Wilmington Truck Route of Alameda Street and "B" Street; Figueroa Street from "B" Street to "C" Street; and Anaheim Street east of Alameda Street. A copy of the Wilmington Truck Route is attached as Exhibit C, which may be modified from time to time at the sole discretion of the Executive Director with written notice to Operator."

6. ARTICLE XIV. INDEMNIFICATION AND INSURANCE, sections 14.01 Indemnification and 14.02 Notification of Miscellaneous Obligations are deleted in its entirety and shall be replaced to include the following sections and language:

"14.01 Indemnity for General Liability

Except for the sole negligence or willful misconduct of City, Operator shall at all times indemnify, protect, defend, and hold harmless City and any and all of its boards, officers, agents, or employees from and against all claims, charges, demands, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities or losses of any kind or nature whatsoever which may be sustained or suffered by or secured against the City, its boards, officers, agents, and/or employees by reason of any damage to property, injury to persons, or any action that may arise out of the performance of this Agreement that is caused by any act, omission, or negligence of Operator, its boards, officers, agents, employees, or subcontractors regardless of whether any act, omission, or negligence of City, its boards, officers, agents, or employees contributed thereto; provided that (1) if the City contributes to a loss, Operator's indemnification of the City for the City's share of the loss shall be limited to One Million Dollars (\$1,000,000.00), (2) notwithstanding the limitation in (1), Operator shall

remain responsible for one hundred percent (100%) of any loss attributable to it, and (3) the provisions in (1) and (2) apply on a per-occurrence basis.

14.02 Back-to-Back Bond

Operator shall, if requested to do so by the Grantee, furnish and pay the premium for a bond in a sum equal to the amount of the Customs Form 301 Foreign-Trade Zone Operator's bond required by Customs pursuant to the Regulations, conditioned upon the full, faithful and prompt performance of and compliance with, on the part of the Operator, all the covenants, terms and conditions of this Agreement on its part to be fulfilled, kept, performed and observed. The bond so furnished shall be in a form acceptable to the Grantee, and shall be effective throughout the term of this Agreement and shall be made either by a surety company or companies qualified to carry on a surety business in the State of California and satisfactory to the Grantee.

7. ARTICLE XIV. INDEMNIFICATION AND INSURANCE shall include new sections and language 14.03 to 14.13 as set forth below:

14.03 General Liability Insurance

Operator shall procure and maintain in effect throughout the term of this Agreement, without requiring additional compensation from the City, commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverages written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Operator's normal limits of liability but not less than One Million Dollars (\$1,000,000.00) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Operator. The insurance provided shall contain a severability of interest clause and shall provide that any other insurance maintained by Department shall be excess of Operator's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision. Each policy shall contain an additional insured endorsement naming the City of Los Angeles Harbor Department, its boards, officers, agents, and employees and a 30-day notice of cancellation by receipted mail as shown in Exhibit "D."

14.04 Automobile Liability Insurance

Operator shall procure and maintain at its expense and keep in force at all times during the term of this Agreement automobile insurance written by an insurance company authorized to do business in the State of California

rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Operator's normal limits of liability but not less than One Million Dollars (\$1,000,000.00) covering injuries or death resulting from each accident or claim arising out of any one claim or accident. Each policy shall contain an additional insured endorsement naming the City of Los Angeles Harbor Department, its board, officers, agents, and employees and a 30-day notice of cancellation by receipted mail as shown in Exhibit "E."

14.05 Workers' Compensation

Operator shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that the Operator shall comply with such provisions before commencing the performance of the tasks under this Agreement. Operator shall submit Workers' Compensation policies, whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against the City in any circumstance in which it is alleged that actions or omissions of the City contributed to the accident. See Exhibit "F."

14.06 Carrier Requirements

All insurance which Operator is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to City.

14.07 Notice of Cancellation

Each insurance policy described above shall provide that it will not be canceled or reduced in coverage until after the Board of Harbor Commissioners, Attention: Risk Manager and the City Attorney of City have each been given thirty (30) days' prior written notice by registered mail addressed to 425 S. Palos Verdes Street, San Pedro, California 90731.

14.08 Copies of Policies

Two certified copies of each policy containing the additional insured and 30-day cancellation notice language shall be furnished to Executive Director. Alternatively, two duplicate original additional insured endorsements on forms provided by the Department, as indicated above, may be submitted. The form of such policy or endorsement shall be subject to the approval of the Risk Manager of the Port.

14.09 Modification of Coverage

Executive Director, at his or her discretion, based upon recommendation of independent insurance Operators to City, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Operator.

14.10 Renewal of Policies

At least thirty (30) days prior to the expiration of each policy, Operator shall furnish to Executive Director a renewal endorsement or renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified above. If Operator neglects or fails to secure or maintain the insurance required above, Executive Director may, at his or her own option but without any obligation, obtain such insurance to protect City's interests. The cost of such insurance will be deducted from the next payment due Operator.

14.11 Right to Self-Insure

Upon written approval by the Executive Director, Operator may self-insure if the following conditions are met:

A. Operator has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Operator must have a formal resolution of its board of directors authorizing self-insurance.

B. Operator agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement.

C. Operator agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.

D. Operator agrees that any insurance carried by Department is excess of Operator's self-insurance and will not contribute to it.

E. Operator provides the name and address of its claims administrator.

F. Operator submits a Financial Statement or Balance Sheet prior to Executive Director's consideration of approval of self-insurance and annually thereafter evidence of financial capacity to cover the self-insurance.

G. Operator agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance.

H. Operator has complied with all laws pertaining to self-insurance.

14.12 Accident Reports

Operator shall report in writing to Executive Director within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon the premises, or elsewhere within the Port of Los Angeles if Operator's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Operator, its officers or managing agents.

14.13 Notification of Miscellaneous Obligations

Operator shall be liable and responsible for satisfaction where applicable of assessments, charges, fees, damages, penalties or fines imposed by the Foreign-Trade Zones Board, or any federal, state or local agency resulting from any activity, act or omission to act in the maintenance and operation of the foreign-trade zone at the Zone Site of same. The Operator shall advise the Grantee within three (3) days of any investigations commenced or reports requested by any government agency that pertain to the operation of the Zone Site, other than routine requests for information received from the U.S. Customs Service. Where requested to do so by Grantee, Operator shall provide to Grantee a copy of any report or notice issued by a government agency that pertains to an investigation by that agency of the operations of the Zone Site."

8. ARTICLE XVI. – MISCELLANEOUS PROVISIONS, the following new section and language have been added to read:

"16.19 Small Business Development Program

It is the policy of the Department to provide Small Business Enterprises (SBE) and Minority-Owned, Women-Owned and all Other Business Enterprises (MBE/WBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Operator shall assist the City in implementing this policy and shall use its best efforts to afford the opportunity for SBE's, MBEs, WBEs, and OBEs to achieve participation in subcontracts

where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBE's, MBEs, WBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement."

Except as amended herein, all remaining terms and conditions of Agreement No. 2606 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement No. 2606 on the date to the left of their respective signatures.

THE CITY OF LOS ANGELES, by its
Board of Harbor Commissioners

Dated: _____, 2012


By _____
Executive Director

Attest _____
Board Secretary

NIPPON EXPRESS U.S.A. INC.

Dated: June 22, 2012

By 
Masato Nakagawa / GM
(Print/Type Name and Title)

Attest 
HIRASHI NAKAJIMA / S. Supervisor
(Print/Type Name and Title)

APPROVED AS TO FORM AND LEGALITY

July 11, 2012
CARMEN A. TRUTANICH, City Attorney
THOMAS A. RUSSELL, General Counsel

By 
CHRISTOPHER B. BOBO, Assistant

CBB:aeb/jpr
06/22/12
Attachments

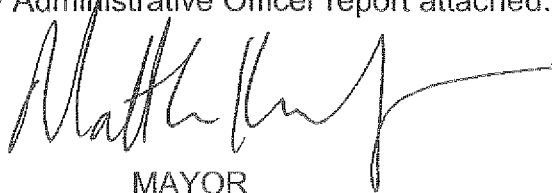
0150-08244-0002

TRANSMITTAL

TO Geraldine Knatz, Ph.D., Executive Director Harbor Department	DATE AUG 16 2012	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED FOREIGN TRADE ZONE OPERATING AGREEMENT PROPOSED
FIRST AMENDMENT TO FOREIGN TRADE ZONE (FTZ) OPERATING AGREEMENT
NO. 2606 WITH NIPPON EXPRESS U.S.A., INC., SITE NO. 7B**

Transmitted for further processing, including Council consideration.
See the City Administrative Officer report attached.



MAYOR

MAS:ABN:10130010t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: August 10, 2012

CAO File No. 0220-08244-0002

Council File No.

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Harbor Department dated July 19, 2012; referred by the Mayor for report dated June 23, 2012

Subject: **PROPOSED FIRST AMENDMENT TO FOREIGN TRADE ZONE (FTZ) OPERATING AGREEMENT NO. 2606 WITH NIPPON EXPRESS U.S.A., INCORPORATED, FTZ SITE NO. 7B**

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 12-7355 authorizing the proposed First Amendment to Foreign Trade Zone (FTZ) Operating Agreement (Agreement) No. 2606 with Nippon Express U.S.A., Inc. (Nippon Express), at FTZ Site No. 7B in the city of Torrance. In August 2007, the Board approved the original FTZ Agreement with Nippon Express for a term of five years, with three subsequent, five-year renewal options, for a contract term up to a total of 20 years, subject to approval by the Board, Mayor and Council. The initial five-year contract term will expire in July 2012. The Port states that any changes made to the original Agreement require a contract amendment. The proposed First Amendment will extend the Agreement by an additional five years, to July 2017, with two five-year renewal options remaining on the existing contract, and maintain the existing terms and conditions, except as amended. Board approval is required to exercise any renewal options and changes to the contract.

The United States (USA) Government's Federal FTZ Board designated the Port as the Grantee/Administrator of FTZ 202 region for the City of Los Angeles and the surrounding region. A definition of an FTZ is a secure area located in or near the port of entry for US Customs and Border Protection Agency (Customs), but legally considered to be outside the Customs territory for the purpose of tariff laws and Customs entry procedures. All activities are performed in accordance with Federal FTZ procedures. The FTZ does not generate a direct profit for the Port, but is provided by the Port as a service to its customers to promote international trade and commerce in the region and USA. See the Attachment for an overview of FTZ policies and guidelines for this Agreement.

The FTZ Agreement authorizes Nippon Express to continue to provide general warehousing, distribution and office facilities for domestic and imported consumer and office products, machineries and other merchandise for sale to national and international markets. The operations for Nippon Express will consist of approximately 300,000 square feet of space for three buildings, offices and warehousing facilities on approximately 93 acres of land. Nippon Express employs approximately 25 full-time and 22 part-time employees.

The Port states that Nippon Express continues to commit to use the Pier Pass program, which will reduce daytime truck traffic operations and allow them to open operations in the evenings. Nippon Express will notify truck drivers, brokers and companies that trucks serving the FTZ site and Port's container terminals must confine their routes to the designated Wilmington truck route. The Port states that if the proposed Agreement is not approved, Nippon Express has the option to move its facilities to another FTZ region in California, such as Long Beach or San Diego or another state. The Port states that approval of the proposed Amendment will support the goal of the FTZ program and Port, which is to stimulate economic growth and development in the United States, facilitate efficient cargo transit and support economic development in the local, State and national economy.

The proposed Amendment is in compliance with City requirements and has been approved as to form by the City Attorney. Pursuant to Charter Section 373 and the Los Angeles Administrative Code Section 10.5, Council approval is required because the cumulative contract term exceeds three years. The Port Director of Environmental Management has determined that this is an administrative action and is therefore exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III, Section 1 (14) of the Los Angeles City CEQA guidelines.

RECOMMENDATION

That the Mayor approve Harbor Department (Port) Resolution No. 12-7355 authorizing the proposed First Amendment to Foreign Trade Zone (FTZ) Operating Agreement No. 2606 with Nippon Express U.S.A., Inc., in FTZ Site No. 7B, in the city of Torrance, and return the document to the Port for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

There will be no additional cost, fees or reduction of compensation to the Harbor Department (Port) authorizing the proposed First Amendment to Foreign Trade Zone (FTZ) Operating Agreement with Nippon Express U.S.A., Inc., in FTZ Site No. 7B. The Port has received \$25,000 from the initial five-year contract term. Compensation from the FTZ fees will remain in the amount of \$5,000 each year during each of the three remaining five-year contract terms, for a total compensation of \$100,000, over the contract period of 20 years. There will have no impact on the City General Fund. Funds will be deposited in the Harbor Revenue Fund.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 373, "Long Term Contract Approved by Council," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," unless the Council takes action disapproving a contract that is longer than three years within 60 days after submission to Council, the contract will be deemed approved.

MAS:ABN:10130010

Attachment

ATTACHMENT

OVERVIEW OF FOREIGN TRADE ZONES, OPERATING AGREEMENT

The Federal FTZ Board designated the Harbor Department (Port) as the Grantee/Administrator of FTZ No. 202 for the City of Los Angeles and the surrounding region. Below is an overview of FTZ policies and guidelines.

The FTZ Operating Agreements are entered into with various companies who have applied for FTZ status with the Federal FTZ Board and have been approved by the United States (U.S.) Department of Homeland Security Customs and Border Protection (Customs) to activate a site. Authority is granted by the Federal FTZ Board under the amended FTZ Act of 1934, which is administered through Federal FTZ and Customs Regulations. The FTZ Act was established to support U.S. commerce and create jobs by reducing import duties or excise taxes by deferring payment of duty thereby making it appealing for companies to perform work on their products in the U.S. instead of offshore. The goal of the Port and FTZ program is to stimulate economic growth and development in the U.S., facilitate efficient cargo transit and support the local, State and national economy.

An FTZ is a secure area located in or near the port of entry for Customs, but legally considered to be outside the Customs territory for the purpose of tariff laws and Customs entry procedures. It is the U.S. version of what are known internationally as free-trade zones. An FTZ is sponsored by qualified public or private companies, which may operate the facilities themselves or contract for the operation with public or private firms. The operations are conducted on a public use basis, which opens its services to the public, with published tariff rates. In this case, the published rates applicable are the Port Tariff (No. 1) rates, terms and conditions. These spaces and operations will be under the supervision of the Federal FTZ Board and Customs and will be required to operate within U.S. law.

The Port FTZ No. 202 is a multi-zone FTZ currently operating 23 sites with 15 contracted FTZ general purpose operators and five Subzone operators. The sites include facilities in the Port area, Los Angeles International Airport, nearby industrial parks and other outlying locations. The FTZ does not generate a profit for the Port, but is provided as a service to its customers to promote international trade in the U.S. These operations will be monitored by the Port, but under the supervision of the Federal FTZ Board and Customs and required to operate within U.S. law.

The FTZ Operator is normally required to pay an annual administrative operating fee of \$5,000 per year for a total of \$25,000 for the first five-year term. Upon approval by the Board of Harbor Commissioners (Board), the Port will be paid up to \$25,000 for each of three five-year renewal options, for an additional \$75,000, and a total contractual fee amount of \$100,000 over 20 years. The proposed Agreement renewal options will be subject to approval by the Board and based upon terms and conditions negotiated prior to the end of each five-year term. The proposed Agreement with the FTZ Operator will become effective the first of the month following Council approval and will remain in effect for an initial term of five years. Either the Port or FTZ Operator can terminate the proposed Agreement at the end of the each term or by submitting a 180-day prior written notice.