

0150-07485-0005

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE APR 26 2019	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

PROPOSED THIRD AMENDMENT TO FOREIGN TRADE ZONE OPERATING AGREEMENT NO. 2340 WITH CUSTOMS AIR WAREHOUSE, INC., FTZ 202, SITE 2A

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



Ana Guerrero

MAYOR

RHL:ABN:101901071

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: April 22, 2019

CAO File No. 0150-07485-0005

Council File No.

Council District: 15

To: The Mayor

From: Richard H. Llewellyn, Jr., City Administrative Officer

Reference: Correspondence from the Harbor Department dated April 1, 2019; referred by the Mayor for report dated March 29, 2019

Subject: **PROPOSED THIRD AMENDMENT TO FOREIGN TRADE ZONE OPERATING AGREEMENT NO. 2340 WITH CUSTOMS AIR WAREHOUSE, INC., FTZ 202, SITE 2A**

RECOMMENDATIONS

That the Mayor:

1. Approve Harbor Department (Port) Resolution No. 19-8454 authorizing the proposed Third Amendment to Foreign Trade Zone Operating Agreement No. 2340 to with Customs Air Warehouse Inc., to continue operating its warehouse and office facilities in the City of Los Angeles, California, within the FTZ 202 region, Site No. 2A; and,
2. Return the document to the Port for further processing, including Council consideration.

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 19-8454 authorizing a proposed Third Amendment (Amendment) to Foreign Trade Zone Operating Agreement (Agreement) No. 2340 with Customs Air Warehouse Inc. (Customs Air), to continue operating its warehouse and office facilities. Customs Air is located at 5540 West 104th Street, 20 N. Fries Avenue, near the Port of Los Angeles (POLA). The original Agreement with Customs Air was for a term of five years, with three subsequent five-year renewal options, for a contract term up to 20 years. The current operating contract term will expire in June 2019. The Amendment will extend the Agreement by an additional five-year term, to June 2024. Board approval is required to exercise any renewal options and changes to the Agreement.

Customs Air is a United States (U.S.) company with headquarters in Los Angeles. The company will continue to provide general warehousing and distribution facilities to receive, store, re-label, and manage inventory and distribute consumer products, accessories, and other merchandise for sale in the domestic and, sometimes, international markets. The FTZ Site 2A for Customs Air includes 37,000 square feet of office space and warehouse facilities on approximately 1.5 acres of land. Customs Air employs approximately eight full-time and part-time employees. Customs Air operates as a multi-usage FTZ site, which provides services to the general public.

All FTZ activities are performed in accordance with Federal FTZ rules and regulations. The Federal FTZ Board designated the Port as the Grantee/Administrator of FTZ 202 region for the City of Los Angeles and surrounding region. Under Federal FTZ procedures, the Port, as the grantee, establishes Agreements with FTZ site operators in the POLA to oversee their FTZ operations. A FTZ provides restricted access sites located in U.S. Customs and Border Protection territories. The importer (Customs Air) may defer payment of duties and other fees until the merchandise is brought into the U.S. for consumption, under FTZ rules and regulations.

Customs Air has paid the Port a one-time application and activation fee of \$5,000. From the beginning of the FTZ Agreement, Customs Air has paid and will continue to pay an annual administrative fee of \$7,750 per year. The annual fee for Customs Air is \$7,750 each year, which equals a total of \$38,750 for a five-year contract term, and a total amount of \$160,000, minus the \$5,000 application fee, over 20 years. Although the FTZ Agreement requires no direct use of Port funds, the Port states that it has incurred expenses of approximately \$36,575 for FTZ-related consulting services and generated revenue of approximately \$344,746 for the 2018 calendar year. The Port provides FTZ operating sites as a service to its POLA customers to promote international trade and commerce in the region. See the Attachment for an overview of FTZ policies and guidelines for this Agreement.

The Port states that Customs Air has committed to use the Pier Pass program, which reduces daytime truck traffic operations and allows open operations in the evenings. Customs Air will notify truck drivers, brokers and companies that trucks serving the FTZ site and Port container terminals must confine their routes to the designated Wilmington truck routes.

The proposed Amendment is in compliance with City requirements and has been approved as to form and legality 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. Except for the proposed Amendment, all other terms and conditions of the Agreement will remain in effect. The Port has determined that the proposed Amendment is an administrative action and is therefore exempt from the requirements of the CEQA in accordance with Article II, Section 2(f) of the Los Angeles City CEQA guidelines.

FISCAL IMPACT STATEMENT

The proposed Third Amendment to the Foreign Trade Zone (FTZ) Agreement with Customs Air Warehouse Inc. will allow Customs Air to continue operating its warehouse and office facilities in FTZ Site No. 2A. Customs Air will pay the Port an additional annual fee of \$7,750 per year and \$38,750 for a five-year contract term ending in June 2024. There will be no impact to the City General Fund and funds will be deposited in the Harbor Revenue Fund.

RHL:ABN:10190107

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. The following 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 a one-time application fee of \$5,000 and an annual administrative operating fee of \$7,750 or \$10,000 per year for an initial term of five years, with three subsequent five-year renewal options, in the same amount, for a contract term up to a total of 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 one-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.