

0150-07532-0001

TRANSMITTAL

TO Eugene Seroka, Executive Director Harbor Department	DATE FEB 26 2015	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED SECOND AMENDMENT TO FOREIGN TRADE ZONE DEVELOPER (FTZ)
AGREEMENT NO. 2369 WITH INDUSTRIAL DEVELOPMENTS INTERNATIONAL, INC.,
FTZ NO. 202, SITE NO. 20**

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

Eric Conarty
gll (Rich Llewellyn)
MAYOR

MAS:ABN:10150067t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: February 20, 2015

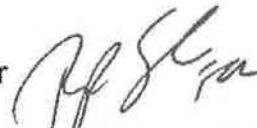
CAO File No. 0150-07532-0001

Council File No.

Council District: 15

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Correspondence from the Harbor Department dated February 3, 2015; referred by the Mayor for report on February 9, 2015

Subject: **PROPOSED SECOND AMENDMENT TO FOREIGN TRADE ZONE DEVELOPER AGREEMENT NO. 2369 WITH INDUSTRIAL DEVELOPMENTS INTERNATIONAL, INC., FTZ NO. 202, SITE NO. 20**

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 15-7748 authorizing the proposed Second Amendment (Amendment) to the Foreign Trade Zone (FTZ) Developer Agreement (Agreement) No. 2369 with Industrial Developments International, Inc. (IDI), FTZ No. 202, Site No. 20, located in the former City of Mira Loma (which is now the City of Jurupa Valley), California, approximately 60 miles from the Port of Los Angeles (POLA). IDI is a real estate investment firm whose principal address is located in Foothill Ranch, California. The proposed Amendment will extend the term of the Agreement for an additional five-year term and reflect a company name change. The original Agreement with IDI was approved for an initial contract term of five years, from March 2005 to February 2010, with renewal options for three subsequent five-year terms, for a total contract term up to 20 years. In July 2011, sections of the City of Mira Loma became part of the newly incorporated City of Jurupa Valley, California. The FTZ site location for IDI has been changed to the City of Jurupa Valley. According to the Port, the First Amendment was approved to extend the FTZ contract term from 2010 to 2015. The proposed Second Amendment requests approval to extend the contact term for an additional five years, from March 2015 to February 2020, and to change the company name from IDI, Incorporation (Inc.), to IDI, Limited Liability Company (LLC). Any change made to the original Agreement requires the execution of an Amendment.

The Port states that the above-referenced Resolution No. 15-7748 approved by the Board incorporates revised information received from the Port subsequent to the initial request submittal. The Port inadvertently designated the content changes as the First Amendment instead of its correct designation as the Second Amendment. Accordingly, each reference in the report has been changed and corrected to the Second Amendment. All remaining terms and conditions of the Agreement will remain in effect, with the exception of the incorporation of updated City's contractual provisions.

The Federal FTZ Board regulations require that the Port enter into a FTZ Developer Agreement with a new land owner. The Federal FTZ Board has designated the Port as the Grantee/Administrator of FTZ No. 202 for the City of Los Angeles and the surrounding region. If the Port does not enter into a new Developer Agreement, IDI would be unable to keep its FTZ status. The proposed Amendment will be for five years, with two subsequent five-year renewal options, for a total of up to 20 years, contingent upon approval by the Board, Council and Mayor.

The FTZ Developer Agreements are with contractors who have applied for FTZ Developer status with the Federal FTZ Board and have been approved by the United States (U.S.) Customs and Border Protection Agency (Customs) to develop and market this property as a FTZ site. The U.S. Federal FTZ Board designated the Port as the Grantee/Administrator of FTZ 202 for the City of Los Angeles (City) and the surrounding region. A definition of 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. All activities are performed in accordance with Federal FTZ procedures. The goal of the FTZ program and Port is to stimulate economic growth and development in the U.S., facilitate efficient cargo transit, and support the local, State and national economy. 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 U.S. See the Attachment for an overview of FTZ policies and guidelines for this Agreement.

The proposed FTZ Amendment continues leasing and marketing the land for general activities such as warehouse operations, distribution centers and office space. IDI paid the Port a one-time application fee of \$2,500 to obtain approval from the Federal FTZ Board. As an FTZ Developer, IDI is not obligated to pay an annual administrative fee to the Port as it would if it was an FTZ operator. IDI will market and lease office, distribution and warehouse spaces to registered FTZ operators who will pay under separate direct agreements with the Port. All FTZ operator agreements approved for land owned or operated by the FTZ Developers will be submitted to the Mayor and Council under separate consideration and approval. The FTZ operators are required to pay the Port a one-time activation fee of \$5,000 and an administrative fee of \$7,750 per year for a total of \$38,750 for the first five-year term and a maximum of \$160,000 over the proposed 20-year life of the Agreement. The FTZ Developer and operator agreements will require no direct use of Port funds. Although there will be no additional direct cost, the Port states that it spends funds on indirect or outside expenses for FTZ-related consulting services. In 2014, the Port spent approximately \$20,000 on FTZ-related consulting services and collected approximately \$320,000 in revenue from all FTZ operators.

The Port states that IDI has committed to instruct the FTZ operators to use the Pier Pass program to reduce daytime truck traffic and is willing to open in the evenings. IDI states that it will have its FTZ operators notify truck drivers, brokers and companies that trucks serving the 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, IDI has the option to move its facilities to another FTZ in California, such as Long Beach or San Diego or another state.

The proposed Amendment is in compliance with City requirements and has been approved as to form by the City Attorney. In accordance with 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 proposed action is an administrative action to approve an Agreement to an FTZ Developer Agreement with IDI. According to the Port Director of Environmental Management, this action is 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. 15-7748 authorizing the proposed Second Amendment to the Foreign Trade Zone (FTZ) Developer Agreement No. 2369 with Industrial Developments International (IDI), Inc., FTZ No. 202, Site No. 20, located in a former portion of the City of Mira Loma which has been re-named as the City of Jurupa Valley, California, consisting of an additional five-year term, from March 2015 to February 2020, and to reflect a company name change, from IDI, Incorporation (Inc.), to IDI, Limited Liability Company (LLC), and return the document to the Port for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

The proposed Second Amendment to Foreign Trade Zone (FTZ) Developer Agreement No. 2369 with Industrial Developments International, Inc. (IDI), FTZ No. 202, Site No. 20, is to continue the FTZ Developer site for an additional five-year term and approve the name change from IDI, Inc., to IDI, LLC, located in the City of Jurupa Valley (formerly the City of Mira Loma), California. IDI has paid an initial fee of \$2,500 to the Port, a one-time activation fee of \$5,000 and an administrative fee of \$7,750 per year for a total of \$38,750 for each five-year term and a maximum of \$160,000 over the proposed 20-year life of the Agreement. Approval of the agreement provides tax and operating benefits to IDI and economic development in the region. There will be no additional payment to the Port and will have no impact on the City General Funds. Any 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:10150067

Attachment

ATTACHMENT

OVERVIEW OF FOREIGN TRADE ZONES, DEVELOPER AGREEMENT

The Federal Foreign Trade Zone (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 Developer Agreements are entered into with various companies that 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 1943, 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 US instead of offshore. The goal of the FTZ program and Port 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 is 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. 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 are under the supervision of the Federal FTZ Board and Customs and required to operate within U.S. law.

The FTZ Developers are not obligated to pay an annual administrative fee to the Port as it would if it was an FTZ Operator. The FTZ Developer leases the land to eligible FTZ Operators for warehousing, distribution and office facilities. The standard FTZ Operating Agreement includes payment to the Port of a one-time application/activation fee (normally \$5,000) and an annual administrative operating fee of \$7,750 per year for a total of \$43,750 for the first five-year term. Upon approval by the Board of Harbor Commissioners (Board), the Port will be paid up to \$38,750 for each of three five-year renewal options, for an additional \$116,250, and a total contractual amount of approximately \$160,000 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 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 Developer can terminate the proposed Agreement at the end of each term or by submitting a 180-day prior written notice.