

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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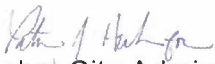
Date: June 20, 2023

CAO File No. 0150-10998-0001

Council File No. 12-1349

Council District: 15

To: The Mayor

From:   
Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from the Harbor Department dated December 1, 2022; referred by the Mayor for report on December 6, 2022

Subject: **RESOLUTION 22-10105 AND PROPOSED THIRD AMENDMENT TO FOREIGN TRADE ZONE OPERATING AGREEMENT NO. 22-2633-C BETWEEN THE HARBOR DEPARTMENT AND SCHAFFER BROTHERS DISTRIBUTION CENTER, INC., FTZ 202, SITE NO. 12**

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### RECOMMENDATIONS

That the Mayor:

1. Approve Los Angeles Harbor Department (Port) Resolution No. 22-10105 authorizing approval of the Third Amendment to Foreign Trade Zone Operating Agreement No. 22-2633-C with Schaffer Brothers Distribution Center, Inc., FTZ 202, Site No. 12 to extend the term by five years retroactively from October 1, 2022 through September 30, 2027;
2. Adopt the December 1, 2022 Board of Harbor Commissioners finding that the proposed action is administratively exempt from the requirements of the CEQA in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines; and
3. Return the Resolution documents to the Port for further processing, including Council consideration.

### SUMMARY

On December 1, 2022, the Board of Harbor Commissioners (Board) adopted Resolution No. 22-10105 authorizing approval of the Third Amendment to Foreign Trade Zone (FTZ) Operating Agreement No. 22-2633-C with Schaffer Brothers Distribution Center, Inc. (Schaffer Brothers) approving an extension of the five-year term for an additional five years from October 1, 2022 through September 30, 2027. The definition of a FTZ is a restricted access site located in the Customs and Border Protection territories. The importer may defer payment of duties and other fees until the merchandise is brought into the U.S. for consumption.

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

Approval of the proposed Third Amendment will result in the Harbor Department receiving \$7,750 annually in accordance with FTZ Tariff No. 2. Approval of the amendment is not projected to result in additional, incremental FTZ-related consulting service expenses being incurred by the Harbor Department.

The proposed amendment has been approved as to form by the City Attorney. Pursuant to Charter Section 373, Council approval is required because the cumulative contract term exceeds three years. Our Office has reviewed the request and recommends approval.

## **BACKGROUND**

The Foreign Trade Zone Act of 1934, as amended (19 U.S.C. 81a-81u), was enacted 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.

FTZ No. 202 is a multi-zone FTZ currently operating more than 35 general purpose sites. The sites include facilities in the Port area, near Los Angeles International Airport, nearby industrial parks, and other outlying areas.

Beginning on October 1, 2002, Shafer Brothers received Harbor Department approval of General Purpose Operating Agreement No. 2247 to operate FTZ No. 202, Site 12 at 1981 East 213<sup>th</sup> Street, Carson 90746 for a period of five years with three five-year renewal options. During the term of Agreement No. 2247, the Department indicates that several City agreement provisions were updated. The updated provisions include: the City Affirmative Action Program, Governing Law/Venue, Wage and Earning Assignment, Orders and Notices of Assignment, State Tidelands Grants, City Business tax, Equal Benefits Policy, and the addition of the official name of the U.S. Customs and Border Protection Agency. The Department further indicates that when Shafer Brothers requested approval of the first renewal option to Agreement No. 2247, the Port determined that it was advisable to prepare a new agreement encompassing all provision changes.

On February 8, 2008, the Board of Harbor Commissioners approved FTZ General Purpose Operating Agreement No. 2633 with Shafer Brothers to continue operation of a warehouse at Site 12. The new agreement between the Port and Shafer Brothers was for a five-year term with three five-year renewal options.

A First Amendment to FTZ Operating Agreement No. 2633 was approved by the Board on July 19, 2012, extending the term until September 2017. A Second Amendment was approved by the Board on July 20, 2017, extending the term for an additional five-year period ending September 30, 2022.

Site 12 consists of an eight-acre site with approximately 191,000 square feet of warehousing and office space located nine miles from the Port of Los Angeles. Shafer Brothers will operate its facility under FTZ procedures as a multi-usage facility performing the logistics, handling, storage, and inventory and quality control of mainly retail consumer goods. Occasionally products may be re-exported. Shafer Brothers must continue to follow all rules and procedures as outlined in the Department of Homeland Security's FTZ manual, including the provision of a secured area within the FTZ site. Attachment 2 to this report provides a more detailed overview of FTZ Operating Agreements.

*FTZ Revenues* - During Fiscal Year (FY) 2022, unaudited revenues of \$289,336 were collected from Harbor Department FTZ operators. However, during FY 2022, the Harbor Department incurred only \$30,594 in expenses for FTZ consulting services. Approval of the proposed Third Amendment will result in an annual payment to the Port of \$7,750 in accordance with FTZ Tariff No. 2. Approval of the amendment requires no direct use of Port funds.

In the event Shafer Brothers does not obtain approval from the Harbor Department as an operator with FTZ status, the firm has a choice of going with another FTZ in California such as the one operated by the Port of Long Beach. Since FTZ facilities exist in every state, a company can potentially shift its employees to work elsewhere as a result of seeking FTZ status in another location.

### **CITY COMPLIANCE**

Pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5; Council approval is required because the cumulative contract term exceeds three years. The proposed Third Amendment has been approved as to form by the City Attorney.

*California Environmental Quality Act (CEQA)* – The proposed Third Amendment extending Foreign Trade Zone Operating Agreement No. 22-2633-C with Shafer Brothers for five years involves an administrative activity. The Harbor Department Director of Environmental Management has determined that the proposed action is administratively 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**

Approval of the proposed Third Amendment to FTZ Operating Agreement No. 22-2633-C with Schafer Brothers Distribution, Inc. will result in the Harbor Department receiving \$7,750 annually in accordance with FTZ Tariff No. 2. Approval of the amendment is not projected to result in additional, incremental FTZ-related consulting service expenses being incurred by the Harbor Department. The recommendations in this report comply with the Port's Financial Policies. There is no impact on the City's General Fund.

Attachment 1 – December 1, 2022 Board report, Resolution. No. 22-10105 and Third Amendment (No. 22-2633-C) to Operating Agreement No. 2633 with Shafer Brothers Distribution Center, Inc.  
Attachment 2 – Overview of Foreign Trade Zone (FTZ) and Operating Agreements