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TRANSMITTAL

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| TO Eugene D. Seroka, Executive Director Harbor Department | DATE OCT 11 2017 | COUNCIL FILE NO. |
| FROM The Mayor | COUNCIL DISTRICT 15 | |

PROPOSED FIRST AMENDMENT TO FOREIGN TRADE ZONE (FTZ) OPERATING AGREEMENT NO. 12-3074 WITH LAXFUEL CORPORATION, FTZ SITE NO. 25

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



Ana Guerrero

MAYOR

RHL:ABN:10180029t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: October 3, 2017

CAO File No. 0150-11018-0000

Council File No.

Council District: 15

To: The Mayor

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

Reference: Correspondence from the Harbor Department dated September 14, 2017; referred by the Mayor for report dated September 20, 2017

Subject: **PROPOSED FIRST AMENDMENT TO FOREIGN TRADE ZONE (FTZ) OPERATING AGREEMENT NO. 12-3074 WITH LAXFUEL CORPORATION, FTZ SITE NO. 25**

RECOMMENDATIONS

That the Mayor:

1. Approve Harbor Department (Port) Resolution No. 17-8158 authorizing the proposed First Amendment to Foreign Trade Zone (FTZ) Operating Agreement No. 12-3074 with LAXFUEL Corporation, in FTZ Site No. 25, to extend the term of Agreement for an additional five years, from October 2017 through September 2022; 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. 17-8158 authorizing a proposed First Amendment (Amendment) to Foreign Trade Zone (FTZ) Operating Agreement (Agreement) No. 12-3074 with LAXFUEL Corporation (LAXFUEL) to extend the Agreement for an additional five years, from October 2017 through September 2022, FTZ Site No. 25. The original Agreement began in October 2017 and was for an initial term of five years, with three subsequent five-year renewal options, for a total contract term up to 20 years. The proposed Amendment will allow LAXFUEL to continue operating FTZ No. 25 within the Los Angeles International Airport (LAX) as an off-site facility for the storage and delivery of jet fuel for LAX. All other terms and conditions of the Agreement with the Port of Los Angeles (POLA) will remain in effect, with the exception of the incorporation of updated City contractual provisions.

FTZ Site No. 25 consists of seven storage terminals with liquid bulk terminal refineries, storage tanks, pipelines and office space on approximately 669 acres located within LAX and off-site storage facilities. Liquid bulk terminals are normally used for petroleum, oil and chemical tanks and terminals. LAXFUEL will continue to operate its designated land, facilities and storage centers under FTZ rules and regulations and provide the means for airline carriers to use jet fuel free of customs duties and fees. LAXFUEL employs approximately 38 full-time employees for its airport operations. LAXFUEL operates a multi-usage site, which provides FTZ services to the general public.

The Federal FTZ Board designated the Port as the Grantee/Administrator of FTZ 202 region for the City of Los Angeles (City) and the surrounding region. The Port FTZ No. 202 is a multi-zone FTZ operating site, with sites in the Port area, LAX, nearby industrial parks and other outlying locations. An importer may defer payment of duties and other fees until the merchandise is brought into the U.S. for consumption. All activities are performed in accordance with the Federal FTZ procedures. See the Attachment for an overview of FTZ policies and guidelines for this Agreement.

The Port, as the FTZ grantee, establishes General Purpose Agreements with FTZ site owners to oversee FTZ operations. The FTZ Agreement requires no direct use of Port funds. A definition of an FTZ is a secure area located in or near the port of entry for United States (U.S.) Customs and Border Protection Agency (Customs), but legally considered to be outside the Customs territory for the purpose of tariff laws and entry procedures. The goal of the FTZ program and Port is: to stimulate economic growth and development in the U.S; promote international trade and commerce in the region; facilitate efficient cargo transit; and, support the local, State and national economy. LAXFUEL operates FTZ Site No. 25 under Federal FTZ Operating rules and regulations.

The Port states that the FTZ Agreement with LAXFUEL will not affect any other leases, permits or contracts that it has with the POLA. The Port states that LAXFUEL has committed to use the Pier Pass program, which reduces daytime truck traffic operations and allows open operations in the evenings. LAXFUEL 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 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 the Amendment the use of an existing site involving no expansion of use and therefore is exempt from the requirements of CEQA in accordance with Article III, Class 1(14) of the Los Angeles City CEQA Guidelines.

FISCAL IMPACT STATEMENT

LAXFUEL has paid the Port a one-time application fee of \$5,000 and an annual fee from the beginning of its FTZ Agreement. LAXFUEL will pay the Port an annual administrative fee of \$7,750 per year or \$38,750 for one five-year contract term, and each subsequent five-year contract term. LAXFUEL will have two additional renewal options, subject to approval by the Board, up to a total 20-year contract term. Total revenue amount may generate up to \$160,000, including the \$5,000 application fee. In 2016, the Port incurred expenses of approximately \$48,606 for outside consultants for all FTZ related consulting services and collected \$336,688 in revenue from the Port FTZ operators. The Port provides FTZ sites as a service to its customers to promote international trade and commerce in the region.

RHL:ABN:10180029

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 \$7,500 and an annual administrative operating fee of \$7,750 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.