

TRANSMITTAL		0150-08244-0010
TO Eugene D. Seroka, Executive Director Harbor Department	DATE 11/03/2023	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT 15
<p>RESOLUTION NO. 23-10181 AND PROPOSED FOREIGN TRADE ZONE GENERAL PURPOSE OPERATING AGREEMENT NO. 23-9962 BETWEEN THE HARBOR DEPARTMENT AND NIPPON EXPRESS USA, INC., FTZ 202, SITE NO. 61</p> <p>Transmitted for further processing and Council consideration. See the City Administrative Officer report attached.</p> <p> MAYOR (Chris Thompson for)</p> <p>MWS:PJH:JVW:SF:JFH:10240026t</p>		

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: August 16, 2023

CAO File No. 0150-08244-0010

Council File No.

Council District: 15

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from Los Angeles Board of Harbor Department (Board) dated May 11, 2023 regarding May 11, 2023 Board Resolution; referred by the Mayor for report on May 11, 2023

Subject: **RESOLUTION NO. 23-10181 AND PROPOSED FOREIGN TRADE ZONE GENERAL PURPOSE OPERATING AGREEMENT NO. 23-9962 BETWEEN THE HARBOR DEPARTMENT AND NIPPON EXPRESS USA, INC., FTZ 202, SITE NO. 61**

RECOMMENDATIONS

That the Mayor:

1. Approve Los Angeles Harbor Department (Port) Resolution No. 23-10181 which authorizes the proposed Foreign Trade Zone (FTZ) General Purpose Operating Agreement No. 23-9962 between the Port and Nippon Express USA, Inc., FTZ 202, Site No. 61, for a term of five years with three five-year renewal options commencing on the first day of the month following approval by the City;
2. Adopt the May 11, 2023 Board of Harbor Commissioners finding that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II Section 2(f) of the Los Angeles City CEQA Guidelines; and
3. Authorize the Port Executive Director, or designee, to execute the proposed agreement, already approved as to form by the City Attorney, and return the Resolution documents to the Port for further processing, including Council consideration.

SUMMARY

The Los Angeles Board of Harbor Commissioners (Board) requested approval of its May 11, 2023 Resolution No. 23-10181 which authorizes the proposed Foreign Trade Zone (FTZ) General Purpose Operating Agreement No. 23-9962 with Nippon Express USA, Inc. (Nippon Express) to operate a warehouse and office at FTZ 202, Site 61, for a five-year term, including three five-year renewal options.

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.

In January 2020, Nippon Express, a United States subsidiary of the Nippon Express Co., Ltd., moved its principal location for West Coast ocean cargo transport and warehousing operations from Torrance, California FTZ 202, Site 7B to Site 61 located at 1901 W. Pacific Coast Highway, Long Beach, California. Site 61 is a number assigned by the federal government's FTZ Board.

The Department indicates that the existing FTZ General Purpose Operating Agreement with Nippon Express (No. 08-2606) expired in July 2022. In view of the expiration of that Agreement, the City Attorney has determined that a new General Purpose Operating Agreement is now required.

Approval of the proposed Agreement will result in an annual payment to the Port of \$7,750 in accordance with FTZ Tariff No. 2. Approval of the Agreement is not projected to result in additional, incremental FTZ-related consulting service expenses being incurred by the Harbor Department.

The proposed Agreement has been approved 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 28 general purpose sites. The sites include facilities in the Port area, near Los Angeles International Airport, and nearby industrial parks and other outlying areas.

The existing FTZ Operating General Operating Agreement between the Port and Nippon Express expired on July 31, 2022 (No. 08-2606). The Department indicates that in view of the expiration of the previous FTZ Operating Agreement, the City Attorney has determined that execution of a new General Purpose Operating Agreement is required. While the Department indicates that they do try and contact FTZ operators prior to expiration of their operating agreements, the FTZ operator is ultimately responsible for maintaining a valid operating agreement with the Port.

General Purpose Operating Agreement No. 23-9962 authorizes Nippon Express to operate a warehouse and offices on 10 acres at Site 61. The Site is operated as a multi-usage FTZ facility where approximately seven full-time and part-time employees work within the proposed FTZ warehouse area. Nippon Express will manage the logistics, handling, storage, inventory, and quality control of general merchandise, as well as the occasional re-export of products at Site 61.

The proposed Agreement allows the firm to operate at Site 61 for a five-year term commencing upon approval by the City, with three five-year renewal options.

Nippon Express 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. The Department indicates that Nippon Express shall notify truck drivers, truck brokers, and trucking companies that the trucks serving the Port of Los Angeles must confine their routes to the designated Wilmington Truck Route which allows overweight container loads to be transported without special authorization. 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 Agreement will result in an annual payment to the Port of \$7,750 in accordance with FTZ Tariff No. 2. Approval of the Agreement requires no direct use of Port funds.

In the event Nippon Express 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 Agreement has been approved as to form by the City Attorney.

California Environmental Quality Act (CEQA) – On May 11, 2023, the Board 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 FTZ Operating Agreement No. 23-9962 with Nippon Express, Inc. will result in the Harbor Department receiving \$7,750 annually in accordance with FTZ Tariff No. 2. Approval of the Agreement 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 – May 3, 2023 BOHC report, Resolution No. 23-10181 and Agreement (No. 23-9962) with Nippon Express USA, Inc.

Attachment 2 – Overview of Foreign Trade Zone (FTZ), and Operating Agreements