

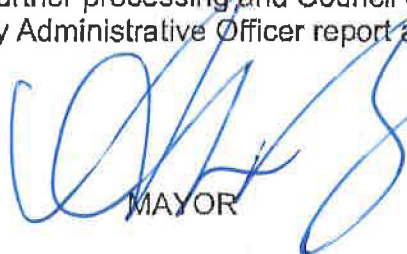
0150-10533-0000

**TRANSMITTAL**

TO Eugene D. Seroka, Executive Director Harbor Department	DATE <b>DEC - 1 2015</b>	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED FOREIGN TRADE ZONE OPERATING AGREEMENT NO. 15-3353  
BETWEEN THE HARBOR DEPARTMENT AND PROSPECT ENTERPRISE DBA KANSAS  
MARINE COMPANY, FTZ 202, SITE NO. 45**

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

  
MAYOR Ana Guerrero

MAS:ABN:10160031f

**REPORT FROM**

## **OFFICE OF THE CITY ADMINISTRATIVE OFFICER**

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**Date:** November 24, 2015


CAO File No. 0150-10533-0000

Council File No.

Council District: 15

**To:** The Mayor

**From:** Miguel A. Santana, City Administrative Officer



**Reference:** Correspondence from the Harbor Department dated October 22, 2015; referred by the Mayor for report dated October 26, 2015

**Subject: PROPOSED FOREIGN TRADE ZONE OPERATING AGREEMENT NO. 15-3353 BETWEEN THE HARBOR DEPARTMENT AND PROSPECT ENTERPRISE DBA KANSAS MARINE COMPANY, FTZ 202, SITE NO. 45**

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### **SUMMARY**

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 15-7865 authorizing the proposed Foreign Trade Zone (FTZ) Operating Agreement No. 15-3353 with Prospect Enterprise dba Kansas Marine Company (Kansas), in FTZ 202, Site No. 45. The FTZ site is located at 625 Kohler Street in the City of Los Angeles (City), approximately 20 miles from the Port of Los Angeles (POLA). The proposed operating Agreement with Kansas is for an initial term of five years, with three subsequent five-year renewal options, for a possible contract term up to a total of 20 years. The FTZ Operator plans to activate, operate and manage FTZ operations, including a general warehouse facility, under a multi-usage site. A multi-usage operator provides FTZ services to the public.

In October 2015, the Board approved the proposed FTZ Agreement with Kansas to operate the FTZ Site No. 45 under federal FTZ operating rules and regulations. The United States (U.S.) Government's Federal FTZ Board designated the Port as the Grantee/Administrator of FTZ 202 region for the City and the surrounding region. A definition of a FTZ is a secure area located in or near the port of entry for the U.S. Customs and Border Protection Agency (Customs), but is 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. An importer may defer payment of duties and other fees until the merchandise is brought into the U.S. for consumption. The goal of the FTZ program and Port is to stimulate economic growth and development in the United States, 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 FTZ site used by Kansas includes three buildings and approximately 88,500 square feet of warehouse and office space on approximately three acres of land. The Port states that Kansas employs 10 full-time employees at the site. Kansas is a U.S. based company with its headquarters located in Miami, Florida. The FTZ Agreement will authorize Kansas to operate and manage warehouse facilities at the site to receive, store, re-label, repackage, manage inventory and distribute imported food products, which will be sold to the cruise ship industry. The products by Kansas are sometimes re-exported to international markets.

Kansas already has paid a one-time Minor Boundary Modification (MBM) application fee of \$2,500 to the Federal FTZ Board, and a one-time application or activation fee of \$5,000, for a total of \$7,500. When the operators create a new FTZ site, they apply to the Board and are charged a MBM fee. In addition to the \$7,500, Kansas will pay an annual administrative fee of \$7,750 per year or \$38,750 for one five-year contract term. The three additional renewal options are subject to ratification by the Board, for up to a total 20-year contract term and total revenue of \$162,500. The FTZ site also allows Kansas to confer tax and operating benefits and provide the company tools for economic development. The FTZ Operator agreement 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 administrative services. During the 2014 calendar year, the Port states that it spent approximately \$20,000 for FTZ-related consulting services and collected approximately \$338,000 in revenue and fees from all the FTZ operators.

The Port states that Kansas has committed to use the Pier Pass program, which reduces daytime truck traffic operations and allows open operations in the evenings. Kansas will notify truck drivers, brokers and companies that trucks serving the FTZ site and 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, Kansas has the option to move its facilities to other FTZ regions in California, such as Long Beach or San Diego, Palmdale or another state. The Port states that approval of the Agreement is in the best interest of the City and Port economically.

The proposed Agreement 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 this is an administrative action and is therefore 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) Board of Harbor Commissioners Resolution No. 15-7865 authorizing the proposed Foreign Trade Zone (FTZ) Operating Agreement No. 15-3353 with Prospect Enterprise dba Kansas Marine Company, in FTZ 202, Site No. 45, located at 625 Kohler Street in the City of Los Angeles, approximately 20 miles from the Port of Los Angeles, for an initial term of five years, with three subsequent five-year renewal options, for a contract term up to a total of 20 years, and return the document to the Port for further processing, including Council consideration.

### **FISCAL IMPACT STATEMENT**

The proposed FTZ Operator Agreement with Prospect Enterprise dba Kansas Marine Company, (Kansas) will have no impact on the City General Fund. Kansas already has paid a one-time Minor Boundary Modification Application fee of \$2,500 and application or activation fee of \$5,000, for a total of \$7,500. In addition to the \$7,500 fee, Kansas will pay an annual administrative fee of \$7,750 per year or \$38,750 for one five-year contract term, with three additional contract renewal options, subject to ratification by the Board, for up to a total 20-year contract term and total revenue of \$162,500, if the contract is renewed. There will be no impact on the City General Fund. All 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:10160031

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 Operating Agreements and the policies and guidelines.

The FTZ 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 importer may defer payment of duties and other fees until the merchandise is brought into the U.S. for consumption. The goal of the Port and FTZ program is to stimulate economic growth, 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 \$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.