

**TRANSMITTAL**

0150-08462-0002

TO Eugene D. Seroka, Executive Director Harbor Department	DATE  AUG 03 2018	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED SECOND AMENDMENT TO FOREIGN TRADE ZONE (FTZ) OPERATING  
AGREEMENT NO. 13-2605 WITH KW INTERNATIONAL INC., FTZ SITE NO. 4C**

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

  
MAYOR

RHL:ABN:101900051

**REPORT FROM**

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

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**Date:** August 2, 2018

CAO File No. 0150-08462-0002  
Council File No.  
Council District: 15

**To:** The Mayor

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

**Reference:** Correspondence from the Harbor Department dated July 24, 2018; referred by the Mayor for report dated July 24, 2018

**Subject:** **PROPOSED SECOND AMENDMENT TO FOREIGN TRADE ZONE (FTZ) OPERATING AGREEMENT NO. 13-2605 WITH KW INTERNATIONAL INC., FTZ SITE NO. 4C**

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### **RECOMMENDATIONS**

That the Mayor:

1. Approve Harbor Department (Port) Resolution No. 18-8315 authorizing the proposed Second Amendment to Foreign Trade Zone Operating Agreement No. 13-2605 to with KW International Inc., to continue operating its warehouse and office facilities in the City of Carson, California, within the FTZ 202 region, Site No. 4C; 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. 18-8315 authorizing a proposed Second Amendment (Amendment) to Foreign Trade Zone (FTZ) Operating Agreement (Agreement) No. 13-2605 with KW International Inc. (KWI), to continue operating its office space and warehouse facilities within the same FTZ 202, Site No. 4C. KWI is located at 18655 South Bishop Avenue, in the City of Carson, and is approximately ten miles from the Port of Los Angeles (POLA). The proposed Amendment includes any language that has been updated in the contract provisions. Except for the updated contract provisions, all other terms and conditions of the Agreement will remain in effect.

The Port, as the FTZ grantee, establishes FTZ Agreements with the FTZ site operators in the POLA to oversee their FTZ operations. The initial Agreement was for a term of five years, with three subsequent five-year renewal options, for a contract term up to 20 years, contingent upon Board approval. In the First Amendment, KWI exercised its first renewal option to extend the term of the Agreement by an additional five years. The FTZ Site 4C for KWI includes 56,733 square feet of office space and warehouse facilities on approximately 353 acres of land within the FTZ 202 service area. KWI employs approximately 15 full-time and part-time employees. KWI receives, stores, manages inventory, and distributes various products for United States (U.S.) consumption and, sometimes, international uses. KWI is a U. S. company with its headquarters in the City of Carson.

KWI has paid the Port a one-time application fee of \$5,000 and an annual administrative fee from the beginning of the FTZ Agreement in 2008. KWI will continue to pay the Port an annual fee of \$7,750 per year for the second five-year term of the Agreement, from November 2018 through October 2023. KWI annual fee of \$7,750 each year equaled a total of \$38,750 for the first five-year term. KWI will have two additional renewal options, subject to approval by the Board, for a possible 20-year contract term and total revenue amount of \$160,000, minus the \$5,000 application fee. The FTZ Agreement requires no direct use of Port funds. However, the Port states that it has incurred expenses of approximately \$36,025 for outside FTZ related consulting services and generated revenue of approximately \$337,000 for the 2017 calendar year.

KWI operate FTZ Site No. 4C under Federal FTZ Operating rules and regulations. The FTZ Act of 1934 was established to support U.S. commerce and create jobs by reducing import duties or excise taxes by deferring payment of duties, and making it more attractive for companies to perform some work on U.S. property, instead of offshore. The definition of an FTZ is a restricted access site located in U.S. 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 Port as the Grantee/Administrator of FTZ 202 region for the City of Los Angeles (City) and the surrounding region. All activities are performed in accordance with Federal FTZ procedures. The Port provides the FTZ operating sites as a service to its POLA customers to promote international trade and commerce in the region.

The Port states that KWI has committed to use the Pier Pass program, which reduces daytime truck traffic operations and allows open operations in the evenings. KWI 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. See the Attachment for an overview of FTZ policies and guidelines for this Agreement.

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 year. The Port Director of Environmental Management has determined that the proposed Amendment is an administrative action and is therefore exempt from the requirements of the CEQA in accordance with Article III, Section 1(14) of the Los Angeles City CEQA guidelines.

## **FISCAL IMPACT STATEMENT**

The proposed Amendment for Harbor Department (Port) FTZ Operating Agreement will allow KW International Inc. (KWI) to continue to operate and manage its FTZ office and warehouse facilities on FTZ 202, Site No. 4C. KWI will pay to the Port an annual fee of \$7,750 per year for the five-year term of the Agreement. There will be no impact on the City General Fund and funds will be deposited in the Harbor Revenue Fund.

MAS:ABN:10190005

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 \$5,000 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.