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OFFICE OF THE CITY CLERK  
OAKLAND  
2015 NOV 19 PM 12:40

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Mark Sawicki  
Director, Economic &  
Workforce Development

**SUBJECT:** CAO Authorization for FTZ Subzone  
Operating Agreements

**DATE:** November 16, 2015

City Administrator Approval

Date:

11/18/15

## RECOMMENDATION

Staff recommends that the City Council adopt:

**A Resolution Authorizing The City Administrator Or Designee To Negotiate And Enter Into Operating Agreements With Various Companies For Sub-Zone Designation Under The Alternative Site Framework Of The Oakland Foreign Trade Zone #56.**

## EXECUTIVE SUMMARY

The City of Oakland ("City") is the federal Grantee for the administration of Foreign Trade Zone #56 ("FTZ #56") which provides eligible companies financial savings afforded by zone status. The City is responsible for receiving and reviewing foreign trade zone designation applications from interested companies; coordination with the US Customs and Border Protection Agency ("Customs") and the submittal of a completed application to the Foreign Trade Zone Board ("FTZ Board") for final review and approval. Upon FTZ Board approval, the City is able to enter into an operating agreement for the approved companies to locate and operate a "subzone" within FTZ #56. The recommended action would authorize the City Administrator or Designee to negotiate and enter into such operating agreements.

## BACKGROUND / LEGISLATIVE HISTORY

Foreign Trade Zones ("FTZs") provide importers, exporters, manufacturers and distributors with opportunities to reduce and defer the payment of U.S. Customs duties (tax or fee on imports, exports, etc.) until the product leaves the designated service area zone. In addition, a FTZ designation can improve the competitive position of a business because the company may potentially reduce production, transaction, and logistics-related costs. As an economic development service, the FTZ #56 assists businesses in Oakland and the East Bay to be more competitive in the global economy and supports business attraction efforts, especially in manufacturing distributors, assemblers of products, and exporters of imported merchandise.

Item: \_\_\_\_\_  
CED Committee  
December 1, 2015

FTZ legislation was enacted by Congress in 1934 with a legislative purpose "to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States to expedite and encourage foreign commerce". Oakland was designated by the FTZ Board as FTZ #56 in 1980. In 1981, the City entered into an agreement with the Oakland International Trade Center ("OITC") to operate the FTZ site as a "general purpose zone" including capacity for 500,000 square feet of FTZ activity. In 1989, the City entered into an agreement with Pacific American Warehousing & Trucking Company ("PACAM") for the operation of FTZ #56, due to lack of zone activity by the prior contractor. In 2008, the City as Grantee, entered into a new agreement for FTZ operations with Matson Logistics. Since the City has filed for the new Alternative Site Framework, which restructures and simplifies the procedures under which FTZs operate (**see Attachment B: Resolution C.M.S.85136 July 2014**), it has resumed its role in the administration and management of FTZ #56. The direct administration of FTZs by a Grantee, including the management and processing of new subzone operating agreements, is consistent with the policies of the Federal FTZ Board.

As Grantee, the City is responsible for administering FTZ #56 in compliance with the US Foreign-Trade Zones Act of 1934 which requires that the Zone operate under "public utility" principles to provide eligible companies the financial savings afforded by zone status. The City is responsible for receiving and reviewing foreign trade zone designation applications from interested companies; coordination with the US Customs and Border Protection Agency ("Customs") and the submittal of a completed application to the Foreign Trade Zone Board ("FTZ Board") for final review and approval. Upon FTZ Board approval, the City is able to enter into an Operating Agreement for the approved companies to locate and operate a "subzone" within the approved FTZ #56 Service Area (which is within 60 miles of the Port of Oakland as shown in Attachment A). The Grantee's role does not involve, nor allow, discretionary involvement in sub-zone operations. Overall, approval of subzone applications is authorized by the federal FTZ Board, and approval of subzone operations is under the authority of Customs. The FTZ Board has clarified, and reinforced, that Grantees such as the City, are to act as administrators only, and not be engaged in any way with the operations, or have any liability, for the operating agreements of any subzone or usage driven site.

In July 2014, the City Council authorized the City Administrator to submit an application to the FTZ Board for the new Alternative Site Framework ("ASF") structure, and enter into an agreement with the FTZ Board, U.S. Department of Commerce, to transition FTZ #56 to ASF status. The application has been submitted to the FTZ Board for review and approval. Meanwhile, the FTZ Board invites its Grantee's to submit applications for "subzones" (minor boundary modifications) within 60 miles of Oakland which is the Service Area of the Oakland FTZ #56 (see Attachment A). Staff updated the Resolution CMS 85136 in July 2014 to "refresh it" for date only per FTZ Board requirements, and in January 2015, the Oakland City Council authorized a new Resolution (C.M.S. 85364) to appropriate revenues to the FTZ.

The City Attorney has determined that the language in the Resolution No. 85136 C.M.S. does not authorize the City Administrator or designee to enter into each operating agreement with companies that desire to obtain FTZ designation without returning to City Council. The proposed new Resolution would authorize the City Administrator or designee to negotiate and execute Operating Agreements for new subzones or usage driven zone sites without returning to Council.

## **ANALYSIS AND POLICY ALTERNATIVES**

The global economy is altering how goods are produced. Today, parts made in one country are increasingly assembled in another, and then sold in a third. As global trade expands, FTZs have also grown in importance.

The ASF is designed to serve communities that want the flexibility to both support and attract users/operators where the demand for FTZ services is expected to increase in the future.

The ASF will allow the City, as Grantee, to offer the competitive benefits of FTZ #56 to a broader range of companies. Because the ASF essentially reduces the timeframe for the designation of a FTZ site, it is critical that the City, as the Grantee has the flexibility to operate and administer FTZ #56.

Returning to Council for approval of each operating agreement with the various companies would hinder zone designations and operations by causing time delays, and may be counter to the FTZ Board's determination that Grantee's not intervene in operations of private subzone operators.

Approval of this proposed Resolution will allow staff the ability to efficiently operate the FTZ #56 and thus contribute to the City's overall efforts to enhance the City's appeal as a place to do business for current companies and support their expansion as well as help to attract new business activity.

## **FISCAL IMPACT**

The City, as Grantee of FTZ #56, operates under an approved Zone Fee Schedule, approved by the federal FTZ Board. Such fees are published in the Zone Schedule, which appears on the City website and on the FTZ Board website. Approving this action will allow the City to approve new subzone operating agreements and collect such revenues from the operation of newly designated subzones. Revenue derived from such actions is restricted and must be dedicated to the administration and marketing of FTZ #56. FTZ #56 revenues are appropriated (Resolution C.M.S. 85364) into the General Purpose Fund (1010), Economic Development Org (85411), FTZ Project (P389610).

## **PUBLIC OUTREACH / INTEREST**

FTZ #56 co-hosted a public educational seminar at Oakland City Hall about the benefits of Foreign Trade Zones on September 15, 2015. Staff developed a logo, marketing material and published the zone schedule, and standard operating agreement on the City's website. Additional seminars are planned for 2016, including presentations to the Port of Oakland, the Oakland Metropolitan Chamber of Commerce, and to East Bay Economic Development Alliance. Staff markets FTZ #56 to potential companies in the Service Area after identifying best potential candidates, based on company imports.

**COORDINATION**

Staff coordinates all administrative actions with the federal Foreign Trade Zone Board staff and the officers of the local Customs Office, which has jurisdiction over all operating conditions of proposed subzone sites. Staff also works with Matson Logistics, and provides referral of businesses to their FTZ third party logistics services. Staff is coordinating with San Jose and San Francisco foreign trade zones to co-market all the Bay Area Foreign Trade Zones where it is beneficial to do so. This report was coordinated with the City Administrator's Office, City Attorney's Office, and the Controller's Bureau.

**SUSTAINABLE OPPORTUNITIES**

**Economic:** Increasing the number of subzones within FTZ #56 through additional operator agreements will benefit the City and region by increasing jobs, productivity and revenue.

**Environmental:** Access to foreign trade zone sites can increase options for importers and local manufacturers, and optimizes the use of the Port of Oakland as an entry and exiting point for goods for local manufacturers and wholesalers.

**Social Equity:** There is an increased potential for increased warehousing, logistics and manufacturing jobs as a result of the expansion of FTZ #56 sub-zones. Such industries provide entry level- through middle income wage skilled labor positions, providing living wage jobs for Oakland and neighboring area residents.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the City Council adopt:

A resolution authorizing the City Administrator or designee to negotiate and enter into operating agreements with various companies for subzone designation under the Alternative Site Framework of the Oakland Foreign Trade Zone #56.

For questions regarding this report, please contact Margot Lederer Prado, Senior Economic Development Specialist at (510) 238-6766.

Respectfully submitted,



Mark Sawicki, Director  
Economic and Workforce Development  
Department

Reviewed by: Aliza Gallo  
Manager of Economic Development

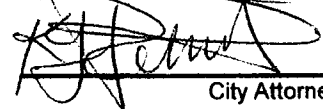
Prepared by: Margot Lederer Prado  
Economic Development Division Staff

Attachments:

Attachment A: FTZ #56 Service Area Map

Attachment B: Resolution C.M.S.85136 July 2014



  
City Attorney

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

RESOLUTION No. 85136 C.M.S.

2014 JUL 10 PM 12:41

Introduced by Councilmember \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO SUBMIT A FOREIGN TRADE ZONE ALTERNATIVE SITE FRAMEWORK APPLICATION AND TO SIGN AND ENTER INTO AN AGREEMENT WITH THE FOREIGN TRADE ZONE BOARD, U.S DEPARTMENT OF COMMERCE**

**WHEREAS,** The City of Oakland is a municipal corporation organized under its charter and the laws of the State of California, and;

**WHEREAS,** the U.S. Foreign Trade Zone program was created by the Foreign Trade Zones Act of 1934 to expedite and encourage foreign commerce; and

**WHEREAS,** the City of Oakland entered into its initial License Agreement with the Foreign Trade Zone Board to operate Oakland Foreign Trade Zone #56 in 1981 to encourage economic activity through encouragement of international trade, assembly processing and manufacturing, and local jobs; and


**WHEREAS,** this designation allows companies within federally-licensed Foreign Trade Zones to delay, reduce, and or eliminate U.S. customs duties on imported merchandise, raw materials and or components, and allows manufacturing companies thereby to be more competitive in the global economy, retaining jobs and production domestically ; and

**WHEREAS,** the FTZ Board has created a new Alternative Site Framework Foreign Trade Zone designation that existing FTZ #56 can pursue by application to the Foreign Trade Zone Board, U.S. Department of Commerce, which allows for a simplified expansion to areas within 60 miles or 90 minutes drive-time of the port of entry for FTZ #56 now, therefore be it

**RESOLVED,** the Interim City Administrator is authorized to submit a Foreign Trade Zone Alternative Site Framework application and authorized to sign an agreement with the Foreign Trade Zone Board, U.S. Department of Commerce, to designate all of Oakland and those areas which agree to inclusion and are within ASF distance guidelines, and be it





  
Deputy City Attorney

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

2015 NOV 19 PM 12:40

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND ENTER INTO OPERATING AGREEMENTS WITH VARIOUS COMPANIES FOR ZONE DESIGNATION UNDER THE ALTERNATIVE SITE FRAMEWORK OF THE OAKLAND FOREIGN TRADE ZONE #56**

**WHEREAS**, the City of Oakland (the “City”) is a municipal corporation organized under its charter and the laws of the State of California; and

**WHEREAS**, the United States Foreign Trade Zones program was created by the Foreign Trades Zones Act of 1934 to provide for the establishment, operation, and maintenance of foreign trade zones in ports of entry in the United States to expedite and encourage foreign commerce; and

**WHEREAS**, the Foreign Trade Zone (“FTZ”) designation allows companies operating within a federally-licensed Foreign Trade Zone to delay, reduce, or eliminate U.S. customs duties on imported merchandise, thereby increasing local business competitiveness and retaining local jobs and production domestically; and

**WHEREAS**, the City was the designated by the Federal Foreign Trade Zone Board as Grantee for Oakland Foreign Trade Zone #56 (“FTZ #56”) in 1980; and

**WHEREAS**, in 1981, the City entered into a License Agreement with Oakland International Trade Center to operate the FTZ #56 to stimulate economic activity through international trade, assembly, processing and manufacturing, and local jobs; and

**WHEREAS**, in 1989, the City entered into a License Agreement with Pacific American Warehousing and Trucking Company (“PACAM”) to operate the FTZ #56; and

**WHEREAS**, in 2008, the City Council approved the assignment of PACAM’s responsibilities under the License Agreement to Matson Logistics (“Matson”) under which License Agreement, Matson remains the FTZ # 56 operator ; and

**WHEREAS**, pursuant to Resolution No. 85136 C.M.S. adopted by the City Council in July 2014, the City Council authorized the City Administrator to submit an application to the FTZ Board under the new Alternative Site Framework, which allows the City/Grantee to administer and manage FTZ #56, including receiving applications from various companies for subzone designation within FTZ #56 and, upon approval by the FTZ Board of said applications, entering into site Operating Agreement with each respective company; and

**WHEREAS**, returning to City Council for authorization to negotiate and enter into each respective Operating Agreement with the various companies would hinder new subzone designations and operations by causing time and administrative delays; now therefore be it

**RESOLVED**, that the City Council hereby authorizes the City Administrator or designee to negotiate and enter into all Operating Agreements with various companies approved by the FTZ Board for subzone designation under the Alternative Site Framework of the FTZ #56, without returning to City Council; and be it

**FURTHER RESOLVED**, that the City Attorney shall review and approve as to form and legality all such Operating Agreements of the FTZ #56, and all such agreements shall be filed with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, COUNCIL  
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California