




City Council Report

Date: November 23, 2015
To: City Council
Through: Christopher J. Brady, City Manager
William J. Jabjiniak, Economic Development Director 
From: Shea Joachim, Senior Project Manager – Strategic Initiatives
Subject: Foreign-Trade Zone Operator Agreement between the City of Mesa and Apple, Inc.
Council District 6

**Strategic
Initiatives**



Purpose and Recommendation

The purpose of this report is to present an Operator Agreement between the City of Mesa and Apple, Inc. for operation of an active foreign-trade zone subzone located at 3740 S. Signal Butte Road, Mesa AZ 85212.

If approved, this agreement will allow Apple, Inc. to operate at the Premises for the purpose of importing, consuming, testing, repairing, packaging, re-packaging, storing, exhibiting, and shipping of merchandise.

Staff recommends that Council approve the Operator Agreement with Apple, Inc.

Background

In November 2013 GTAT Corporation ("GTAT") announced a \$578 million contract with Apple, Inc. to supply advanced sapphire material. The majority of the sapphire material was planned to be produced by GTAT in Mesa, Arizona at 3740 S. Signal Butte Road. A key determinant in the decision to produce sapphire material in Mesa was the use of a foreign-trade zone.

In March of 2014, the Foreign-Trade Zone Board ("FTZ Board") approved Apple/GTAT's request to designate 3740 S. Signal Butte Road as a foreign-trade zone subzone. On June 2, 2014 the Mesa City Council approved a resolution authorizing Mesa's City Manager to enter into an Operator Agreement for a foreign-trade zone subzone with GTAT. On August 1, 2014 United States Customs and Border Protection

("CBP") approved the activation of Subzone 221A located at 3740 S. Signal Butte Road.

Since August 1, 2014 GTAT has been responsible for compliance with all applicable laws and regulations of the FTZ Board, Customs and other governmental entities and agencies relating to activities within FTZ 221 at the Premises and Mesa's published Zone Schedule. On October 12, 2015 the City of Mesa received a letter from GTAT requesting termination of the Operator Agreement to be effective at the close of business on November 30, 2015. In addition, GTAT has requested a transition of Operator responsibilities to Apple, Inc. effective on December 1, 2015.

Representatives from Apple, Inc. have coordinated a smooth transition of operator responsibilities between the City of Mesa, GTAT, and CBP officials. In addition, all of the material that entered the subzone under the purview of GTAT has been cleared by CBP.

Discussion

Foreign-Trade Zone's ("FTZ's") are restricted-access sites in or near ports of entry that are licensed by the FTZ Board and operated under the supervision of CBP. FTZ's are secured areas, and merchandise in a zone is considered outside the customs territory of the U.S. for formal entry procedures only. Foreign merchandise admitted to a zone is within the territory and jurisdiction of the U.S. and is considered imported.

The FTZ program helps encourage activity at U.S. facilities in competition with foreign alternatives by allowing delayed or reduced duty payments on foreign merchandise, as well as other savings. FTZ 221 was granted by the FTZB to the City of Mesa, AZ on April 25, 1997.

FTZ Subzones are special purpose sites for use by one company for a limited purpose. They are established as adjuncts to existing general-purpose zones. On March 19, 2014 the FTZB approved Subzone 221A which is located at 3740 S. Signal Butte Road, Mesa AZ 85212. The Subzone was created for the exclusive use of GTAT/Apple, Inc.

An "Operator" is defined as a person that operates within a zone or subzone under the terms of an agreement with the City of Mesa and with the concurrence of CBP. The City of Mesa explicitly delegates the responsibility for operation of zone sites to operators who will assume responsibility for compliance with all regulations of CBP, the FTZ Board, and other relevant government agencies.

City Staff and Apple, Inc. have agreed to the terms of the Operators Agreement and the proposed agreement is attached as an Exhibit. Staff recommends Council approve the proposed resolution and authorize the City Manager to enter into the Operators Agreement with Apple, Inc.

Alternatives

Direct Staff to Modify the Terms of the Operators Agreement: Council could direct staff to modify the terms of the Operators Agreement. The impact is unknown except for a likely delay while parties return to negotiate.

Take No Action: Council could choose to take no action or table the item until a future date. The impact of a delay is unknown.

Fiscal Impact

Operators shall pay to the City of Mesa an annual FTZ administration fee for the privilege of operating under zone procedures and as reimbursement for the services provided by the City of Mesa. Apple, Inc. will pay an annual fee of \$5,000 to operate Subzone 221A.

Coordinated With

This agreement has been coordinated with the City Attorney's office.