

**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 18 - 0 2 9 8  
SEP 2 6 2018

**REPORT RE:**

**DRAFT ORDINANCE AMENDING PORT OF LOS ANGELES  
TARIFF NO. 4, SECTION TWO – GENERAL RULES AND REGULATIONS AND  
SECTION TWENTY THREE – INCENTIVES – GENERAL RULES AND  
REGULATIONS**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

As requested by the Board of Harbor Commissioners, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. Pursuant to Charter Section 653(a), this draft ordinance would approve Board of Harbor Commissioners Order No. 18-7245, thereby amending the Port of Los Angeles (Port) Tariff No. 4, Section Two and Section Twenty Three in order to provide a financial incentive to Ocean Common Carriers (OCC) that outperform the Transpacific Market percentage growth in the volume of shipping containers that they deliver to the Port of Los Angeles as compared to their previous volumes.

These Tariff amendments support the Harbor Department's Strategic Plan to maintain its position as the number one container port in the nation by volume, by regaining lost market share to other United States ports outside of the San Pedro Bay. In addition, the amendments support the development of a first-of-its-kind common user portal by providing a single information window to support enhanced maritime supply chain performance.

### Charter Findings

On August 16, 2018, pursuant to Los Angeles City Charter Sections 652(a), 652(c) and 653(a), the Los Angeles Board of Harbor Commissioners (Board) adopted Order No. 18-7245, approved the enclosed draft ordinance and recommended that the City Council adopt it. Under Charter Section 653(a), Board Order No. 18-7245 must be approved by the City Council, by ordinance, in order to become effective.

### Background and Discussion

The highly competitive maritime shipping industry continues to face challenging worldwide trading conditions. To weather these challenges, the shipping industry has experienced mergers and acquisitions, the formation of larger vessel alliances and the deployment of ultra large container vessels, all aimed at reducing costs. These industry changes have impacted the OCC and marine terminal relationship whereby terminal selections are often influenced by terminal agreements at other locations around the globe. This, in turn, has impacted the Port's container volume market share.

The Port's Strategic Plan recognizes its position as the number one container port in the nation by volume. In 2009, 2010 and 2013 the Board approved various incentive programs to assist the Port's marine terminals and OCCs, and to maintain the Port's competitive position in the marketplace.

The Port's strategy to increase market competitiveness includes improving efficiency through close coordination between supply chain stakeholders. Supply chain information is currently provided through multiple and separate sources. It is not uncommon for supply chain stakeholders to access more than a dozen different websites for the information to manage their day-to-day operations. The proposed Tariff amendments support this initiative as well.

As an added requirement to be eligible to receive a financial incentive, OCCs are required to electronically transmit to the City of Los Angeles Harbor Department (Harbor Department) specific information on containers handled at the Port, in support of a first-of-its-kind common user portal providing a single information window to support enhanced maritime supply chain performance. The common user portal is currently being developed by the Port in conjunction with GE Transportation.

### Summary of Ordinance Provisions

The Ocean Common Carrier Incentive Program provided by these Tariff amendments would establish eligibility requirements for OCCs that call at the Port to receive a \$10.00 financial incentive on every incremental loaded and empty Twenty-Foot Equivalent Unit (TEU) which that OCC delivered to the Port during the Fiscal Year (FY) ending June 30, 2019 (Incentive Period), compared to FY ending June 30, 2018 (Baseline Year). The maximum incentive an OCC could earn as a result of this incentive program is \$2,000,000 in an Incentive Period. To qualify for this incentive program, the OCC is required to grow its TEU volume above the Transpacific Market growth percentage and provide specific information on containers handled at the Port, as well as meet other eligibility requirements.

The OCC Incentive Program under Item No. 2325 would remain valid for a minimum of one 12-month period commencing on July 1, 2018, and would continue until terminated at the discretion of the Board. The amendment to Item No. 255 "Furnishing Required Documents" removes the requirement for the Harbor Department to seek approval from vessels or steamship companies to disclose vessel or steamship companies' data in order to facilitate development of a common user portal by the Port.

The Ocean Common Carrier Incentive Program is expected to incrementally benefit operating revenues if the payout occurs according to the parameters of the incentive program requirements and assuming that incremental incentivized TEUs are invoiced at more than \$10.00 per TEU.

### CEQA Findings

The proposed action is an amendment to Port of Los Angeles Tariff No. 4 approving an "Ocean Common Carrier Incentive Program" to incentivize growth in container volumes, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (f) of the Los Angeles City CEQA Guidelines.

### Council Rule 38 Referral

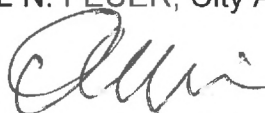
The Harbor Department is the proposing department, and the Tariff amendments were discussed and considered with Harbor Department management and staff present in a full public hearing of the Board of Harbor Commissioners on August 16, 2018.

If you have any questions regarding this matter, please contact Deputy City Attorney John Driscoll at (310) 732-3750. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON  
Chief Assistant City Attorney

DMM:JD:pj  
Transmittal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance approving Order No. 18-7245 of the Board of Harbor Commissioners of the City of Los Angeles, amending Port of Los Angeles Tariff No. 4.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. That Order No. 18-7245 passed and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the 23rd day of August, 2018, amending Port of Los Angeles Tariff No. 4, be, and the same is hereby ratified, confirmed and approved, which Order is in words and figures as follows:

“ORDER NO. 18-7245”

An Order of the Board of Harbor Commissioners of the City of Los Angeles amending Port of Los Angeles Tariff No. 4.

**THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF  
LOS ANGELES DOES HEREBY ORDER AS FOLLOWS:**

Section 1. Port of Los Angeles Tariff No. 4, adopted July 12, 1989, by Order No. 5837, and Ordinance No. 165,789, adopted April 10, 1990, as amended, is further amended as set forth in Exhibit “A,” attached hereto and incorporated herein by reference.

Section 2. The Director of Environmental Management has determined that the proposed action is 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.

Section 3. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners and shall cause the same to be published once in a daily newspaper printed and published in the City of Los Angeles, as well as posted electronically on the Port of Los Angeles website.

Section 4. The Board Secretary shall transmit to the City Council for approval the Order and Ordinance approving the amendment to Tariff No. 4 pursuant to City Charter Section 653(a).

Section 5. The Board Secretary shall execute the proposed Board Order and Ordinance amending Tariff No. 4, and upon its publication, transmit the Order and Ordinance to the Chief Wharfinger for implementation of the tariff change and posting the amended Tariff No. 4 to the Port's website as regulated by the Federal Maritime Commission.

I HEREBY CERTIFY THAT the foregoing Order was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting held on 8/23/18.

  
AMBER M. KLESGES  
Board Secretary"

Sec. 2. That, pursuant to the provisions of Section 653(b) of the City Charter, the Board of Harbor Commissioners shall have the power to suspend, modify or amend temporarily any of the rules or regulations, or any of the rates, tolls or charges prescribed by the aforesaid Order of the Board of Harbor Commissioners for periods not exceeding ninety (90) days, and shall have power to place in effect for a like period of time any temporary rule or regulation, rate, toll or charge for the Harbor District.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By   
JOHN T. DRISCOLL  
Deputy City Attorney

Date 9.26.18

File No. \_\_\_\_\_

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I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

\_\_\_\_\_

\_\_\_\_\_

Ordinance Passed \_\_\_\_\_

Approved \_\_\_\_\_