

0150-03656-0085

**TRANSMITTAL**

TO  
Eugene D. Seroka, Executive Director  
Harbor Department

DATE  
OCT 09 2018

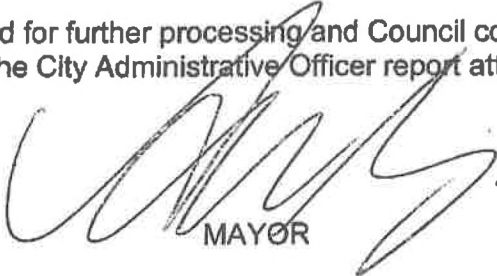
COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT  
15

**PROPOSED PERMANENT ORDER AMENDING PORT OF LOS ANGELES TARIFF NO. 4  
TO PROVIDE A FINANCIAL INCENTIVE TO OCEAN COMMON CARRIERS FOR THE  
FOLLOWING SECTIONS: ITEMS NO. 255, "FURNISHING REQUIRED DOCUMENTS";  
ITEM NO. 2320, "DEFINITIONS OCEANCOMMON CARRIER INCENTIVES"; AND,  
ITEM NO. 2325, "OCEAN COMMON CARRIER INCENTIVE PROGRAM"**

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

  
MAYOR Ana Guerrero

RHL:ABN:10190028f

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: September 28, 2018

CAO File No. 0150-03656-0085

Council File No.

Council District: 15

To: The Mayor

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

Reference: Correspondence from the Harbor Department dated September 5, 2018; referred by the Mayor for report on September 10, 2018

Subject: **PROPOSED PERMANENT ORDER AMENDING PORT OF LOS ANGELES TARIFF NO. 4 TO PROVIDE A FINANCIAL INCENTIVE TO OCEAN COMMON CARRIERS FOR THE FOLLOWING SECTIONS: ITEMS NO. 255, "FURNISHING REQUIRED DOCUMENTS"; ITEM NO. 2320, "DEFINITIONS OCEANCOMMON CARRIER INCENTIVES"; AND, ITEM NO. 2325, "OCEAN COMMON CARRIER INCENTIVE PROGRAM"**

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### RECOMMENDATIONS

That the Mayor:

1. Approve Harbor Department (Port) Board of Harbor Commissioners request to authorize Resolution No. 18-8336 for Permanent Order No. 18-7245 and the corresponding Ordinance to amend Port of Los Angeles Tariff No. 4 (Port Fees, Rules and Regulations Manual) to provide a financial incentive to Ocean Common Carriers for the following Tariff Sections and Items: Section Two, Item No. 255 - "Furnishing Required Documents;" and Section 23, Item No. 2320 - "Definitions Ocean Common Carrier Incentives" and Item No. 2325 - "Ocean Common Carrier Incentive Program;" 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 to authorize Resolution No. 18-8336 for Permanent Order No. 18-7245 (Order) and a corresponding ordinance to amend Port of Los Angeles (POLA) Tariff No. 4 (Port Fees, Rules and Regulations Manual) to provide a financial incentive to Ocean Common Carriers (OCC). The Port states that the proposed Tariff Amendment to the OCC Incentive Program are expected to increase operating revenues and cargo container volume. Below is a summary of the proposed Tariff Sections and Items:

- Section Two - Item No. 255, "Furnishing Required Documents": The Tariff section will add a requirement for Terminal Operators to electronically transmit or provide specific information on all containers handled (i.e., loaded or empty) at the POLA;

- Section 23 - Item No. 2320, includes "Definitions (for) the Ocean Common Carrier Incentives" Program and Item No. 2325, includes "Ocean Common Carrier Incentive Program" eligibility requirements. The Tariff section will add a financial incentive program for OCC on the transport of incremental (loaded and empty) Twenty-foot Equivalent Units (TEU) cargo containers, if they meet certain eligibility requirements. Container size standards are normally twenty feet and are frequently referred to as TEUs.

## **BACKGROUND**

The maritime shipping industry is a highly competitive industry that has sought to reduce ever-increasing expenses and container volume by undergoing mergers and acquisitions, vessel alliances, and building larger container vessels. The Port states that these industry changes have impacted the OCC and other marine terminal relationships in such a way that terminal selections and agreements. The industry changes have influenced global markets, and impacted the market share of container volumes at the POLA and other ports. According to the Port, its market share, in some global market categories, has slightly declined. In past years when this has happened, the Board has approved various incentive programs to assist the Port's marine terminal and OCC business to maintain its competitive position in the marketplace. The proposed Tariff Amendments will provide the Port with a promotional plan to capture a larger proportion of the Asia Trade market share and maintain its position as the number one container port in the nation by volume.

Under Tariff Item No. 255, the electronic transmittal system will provide a consolidation of websites and separate sources through a single informational computer source. This system is described as a first-of-its-kind common user portal to support improved maritime supply chain performance. The Port is developing the common user portal with the G.E. Transportation Company.

## **PROPOSED TARIFF AMENDMENTS**

The Port states that for terminal operators to qualify for the proposed OCC Incentive Program under Item Nos. 2320 and 2325, the OCC would be required to electronically transmit specific information on containers handled at the POLA and comply with the eligibility requirements. In addition, the Tariff Amendment will revise Item No. 255 by removing the requirements of the Port to seek approval from vessels companies to disclose certain of shipping information to POLA.

The proposed OCC Incentive Program initially will remain effective for a minimum of 303 days, retroactive to September 1, 2018, and continue until terminated by the discretion of the Board. In June 2019, the Port staff will provide a report to assess the overall effectiveness of the OCC Program. According to the Port, if the OCC Incentive Program is deemed effective or if is terminated during the prescribed OCC period, all eligible OCC will be entitled to an incentive payment on a pro-rata basis. Pursuant to the proposed Tariff Amendment, the financial incentive amount for the OCC is approximately \$10 per incremental TEU, up to a maximum payout of \$2 million per OCC, for each OCC Incentive Program period.

The Port states that the existing Tariff No. 4 OCC Incentive Program paid approximately \$10.5 million to the OCC on 835,000 TEUs handled during Calendar Years 2014 compared to 2013. According to the Port, there was a 6 percent growth in TEU volumes from Calendar Year 2013 to

2014. The average amount paid to OCC was \$12.55. Under the proposed Tariff Amendments, however, the Port expects a lower (compared to 2014) first year cost for the OCC Incentive Program because of the following: the expected percentage growth for the transpacific markets; the \$10 per TEU payout; and, the \$2 million cap on payments to individual OCC.

The Port will be responsible for all of the financial payouts earned under the OCC Incentive Program and will be paid in a one-time lump sum payment after the Fiscal Year that the from the beginning of the OCC given incentive period. The OCC Incentive Program guidelines will include the following conditions, pursuant to the program policies and guidelines:

- OCC must electronically transmit specific information on containers handled at POLA;
- TEUs delivered during the OCC Incentive Program period must exceed the TEU volumes delivered from previous fiscal year levels, pursuant to program guidelines and policies; and,
- TEUs must be greater than zero during the qualifying year of the first OCC incentive period.

The City Attorney has approved the proposed Order and ordinance as to form and legality. In accordance with Charter Section 653, the Council must approve the ordinance to amend Tariff No. 4 before it can become effective. The Port states that the approval of the Order to amend Tariff No. 4, Item Nos. 255, 2320 and 2325, is an administrative activity. Therefore, the Port Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of California Environmental Quality Act (CEQA) under Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

## **FISCAL IMPACT STATEMENT**

Approval of the Harbor Department (Port) request for the proposed Tariff Amendments to the Port of Los Angeles (POLA) Tariff No. 4 for the "Ocean Common Carrier (OCC) Incentive Program" is expected to benefit operating revenues for the POLA if the payout to eligible OCC participants comply with and achieve estimated program financial goals. The proposed financial incentive funds will be paid to the OCC at approximately \$10 per incremental TEU (cargo container) up to a maximum payout of no more than \$2 million per OCC for each prescribed incentive program period. The Port states that incentive amounts will be contingent upon compliance with the OCC Program policies and guidelines. The Port will be responsible for all of the financial payouts earned under the OCC Incentive Program. Funding for the proposed Tariff Amendment will be included in the proposed FY 2020 budget as part of the annual budgetary adoption process.

*RHL:ABN:10190028*

Attachment

**ATTACHMENT**

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

An ordinance approving Order No. 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 and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the 23 day of August, 2018, amending Port of Los Angeles Tariff No. 4, be, and the same is here by 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 August 28, 2018

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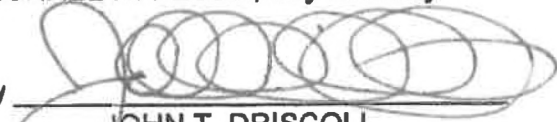
AMBER M. KLESGES  
Board Secretary

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 8-17-2018

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 \_\_\_\_\_