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RECOMMENDATION APPROVED;
RESOLUTION 18-8336 AND
ORDER 18-7245 ADOPTED;
BY THE BOARD OF HARBOR COMMISSIONERS

AUGUST 23, 2018

AMBER M. KLESGES
Board Secretary

THE PORT OF LOS ANGELES
Executive Director's Report to the Board of Harbor Commissioners

DATE: AUGUST 14, 2018

FROM: CARGO MARKETING

SUBJECT: RESOLUTION NO. 18-8336 - APPROVE PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, ITEM NO. 255, "FURNISHING REQUIRED DOCUMENTS"; ITEM NO. 2320, "DEFINITIONS OCEAN COMMON CARRIER INCENTIVES"; AND ITEM NO. 2325 "OCEAN COMMON CARRIER INCENTIVE PROGRAM", PROVIDING A FINANCIAL INCENTIVE TO OCEAN COMMON CARRIERS

SUMMARY:

Staff requests approval of amendments to Port of Los Angeles (Port) Tariff No. 4 (Tariff) that would provide a financial incentive to Ocean Common Carriers (OCC) on incremental loaded and empty Twenty-Foot Equivalent Units (TEU) as part of an incentive program (OCC Incentive Program). Provided certain eligibility requirements are met, this financial incentive could amount to $10.00 per incremental TEU and a maximum payout of $2,000,000 per OCC per Incentive Period (as defined in the proposed Tariff amendment).

To qualify for the proposed OCC Incentive Program, OCCs would be required to electronically transmit to the City of Los Angeles Harbor Department (Harbor Department) specific information on containers handled at the Port. The OCC Incentive Program under Tariff Item No. 2325 would remain valid for a minimum 303-day period commencing on September 1, 2018, and continue thereafter until terminated at the discretion of the City of Los Angeles Board of Harbor Commissioners (Board) by order of the Board. OCCs would have until September 30, 2018 to provide the specified container information in order to be eligible for the OCC Incentive Program. Tariff Item No. 255 would be amended as well, removing the requirement for the Harbor Department to seek approval from vessels or steamship companies to disclose vessel or steamship companies' data.

Payouts to OCCs earned under the terms of the proposed OCC Incentive Program would be the financial responsibility of the Harbor Department.

Port Staff will provide the Board with a report which assesses the overall effectiveness of the program after the initial Incentive Period ending June 30, 2019.

RECOMMENDATIONS:

It is recommended that the Board of Harbor Commissioners:

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California

Environmental Quality Act (CEQA) under Article II Section 2(f) of the City of Los Angeles CEQA Guidelines;

2. Approve amendments to Port of Los Angeles Tariff No. 4, revising Section Two, Item No. 255, "Furnishing Required Documents"; Section Twenty-Three, "Incentives - General Rules and Regulations", Item No. 2320 "Definitions Ocean Common Carrier Incentives" and Item No. 2325 "Ocean Common Carrier Incentive Program", subject to the California Association of Port Authorities' review and approval, and authorize the Executive Director to work with the California Association of Port Authorities to secure this approval or proceed to take independent action in accordance with the California Association of Port Authorities' procedure;

3. Adopt Permanent Order No. 18-7245 to amend Port of Los Angeles Tariff No. 4, Section Two, Item No. 255 "Furnishing Required Documents; Section Twenty-Three, "Incentives - General Rules and Regulations", Item No. 2320 "Definitions Ocean Common Carrier Incentives" and Item No. 2325 "Ocean Common Carrier Incentive Program";

4. Direct the Board Secretary to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the Amendments to Port of Los Angeles Tariff No. 4 pursuant to City Charter 653(a);

5. 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 in a daily newspaper printed and published in the City of Los Angeles;

6. After the effective date of the Ordinance, transmit the Permanent Order and Ordinance to the Executive Director or his nominee for implementation and posting to the Port of Los Angeles website as regulated by the Federal Maritime Commission; and

7. Adopt Resolution No. 18-8336.

DISCUSSION:

Background and Context – 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 cost. 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. For instance, when comparing the Port's January to May 2018 Asia trade market share to the same period in 2017, the Port's market share declined by 4.43 percent. By contrast, Asia trade with the United States (US) grew by 0.43 percent, US West Coast

Asia trade market share grew by 0.20 percent and the San Pedro Bay port complex Asia trade market share grew by 2.55 percent.

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.

In order to capture a larger proportion of the Asia trade market share and maintain the Port's position as number one by container volume, Staff proposes amending the Tariff to include the proposed OCC Incentive Program. If approved, the OCC Incentive Program would allow eligible OCCs to receive a $10.00 per TEU financial incentive on every incremental loaded and empty TEU which that OCC delivered to the Port during any fiscal year (FY) in which the OCC Incentive Program is authorized by the Board (Incentive Period). OCCs would be eligible to receive this $10.00 per TEU financial incentive if the following conditions are met:

- OCCs must electronically transmit to the Harbor Department specific information on containers handled at the Port (as further discussed below); **and**
- TEUs delivered during the Incentive Period must exceed the Transpacific Market growth in TEU volumes delivered relative to the Fiscal Year that immediately precedes the Fiscal Year in which the Incentive Period occurs. The FY preceding the Incentive Period is the Baseline Year; **and**
- TEUs delivered during the Baseline Year must be equal to or exceed TEU volumes delivered during the FY that immediately precedes the Baseline Year. The FY preceding the Baseline Year is the Qualifying Year; **and**
- Qualifying Year TEUs must be greater than zero; **and**
- The maximum payout per OCC per Incentive Period shall not exceed $2,000,000.

If approved by the Board, the first Incentive Period (First Incentive Period) under the proposed OCC Incentive Program would end June 30, 2019. In order to increase initial program participation rates, the requirements that Baseline Year TEUs be equal to or exceed Qualifying Year TEUs and Qualifying Year TEUs be greater than zero would be waived during the First Incentive Period. The tables below provide hypothetical examples showing how payouts would be calculated under the proposed OCC Incentive Program:

A) First Incentive Period

Shipping Line	FY ending June 30, 2018	FY ending June 30, 2019	TP Trade Growth 6.5%	Incented TEUs	Incentive Amount
ABC	100,000 TEU	110,000 TEU	6,500 TEU	3,500 TEU	$35,000

B) Incentive Periods Subsequent to First Incentive Period (until terminated by Board)

Shipping Line	Qualifying Year	Baseline Year	Incentive Period	TP Trade Growth 5.2%	Incented TEUs	Incentive Amount
ABC	100,000 TEU	110,000 TEU	120,000 TEU	5,720 TEU	4,280 TEU	$42,800
DEF	200,000 TEU	150,000 TEU	200,000 TEU	7,800 TEU	0 TEU	$0
XYZ	100,000 TEU	100,000 TEU	105,200 TEU	5,200 TEU	0 TEU	$0

In addition, while these industry changes have yielded economies of scale, the increasing container volume surges at marine terminals require 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.

As an added requirement to be eligible to receive a financial incentive under the proposed OCC Incentive Program, OCCs would be required to electronically transmit to the Harbor Department specific information on containers handled at the Port, in support of a first-of-its-kind common user portal development 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.

The OCC Incentive Program under Item No. 2325 would remain valid at minimum until July 1, 2019 commencing on September 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.

Until the Board terminates the OCC Incentive program, the Incentive Period, Baseline Year and Qualifying Year, will advance accordingly.

If the OCC Incentive Program becomes effective or is terminated during a FY, each eligible OCC shall be entitled to an incentive payment on a pro-rata basis.

Payments made under this program, if any, shall be paid in one-time lump sum payments in the FY subsequent to a given Incentive Period.

The Port, within 30 days of receipt of Incentive Period TEU Volumes delivered by the OCC, will determine the actual monetary payment each OCC is entitled to receive by reconciling the OCC data and the marine terminal operator supplied container report. Payments will be processed upon receipt of written request from OCCs. This written request must be directed to the Executive Director no later than August 31st of the FY immediately following the Incentive Period.

Need for Approval – A separate action recommends Board adoption of a Temporary Order within its Los Angeles City Charter authority to approve changes to Tariff No. 4, to be effective for a period not to exceed 90 days. This action for Board and City Council adoption of a Permanent Order (Transmittal 1) and Ordinance (Transmittal 2) are required under the Charter to make changes to Tariff No. 4 (Transmittals 3 and 4) beyond the Temporary Order's 90-day effective period.

ENVIRONMENTAL ASSESSMENT:

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 volume, 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.

FINANCIAL IMPACT:

The proposed amendment to the "Ocean Common Carrier Incentive Program" is expected to incrementally benefit operating revenues if the payouts occur according to the parameters of the OCC Incentive Program requirements and assuming that incremental incentivized TEUs are invoiced at more than $10.00 per TEU.

The maximum payment an individual OCC can receive from the incentive program is $2,000,000 per Incentive Period, or a pro-rated amount in the event the program is terminated during a FY. In the event that the Transpacific Market percentage growth during the Incentive Period declines below 0 percent, an individual OCC could still qualify to receive payment under the OCC Incentive Program so long as all conditions of the OCC Incentive Program are met.

Except for the First Incentive Period, Baseline Year TEU volumes must be equal to or greater than Qualifying Year TEU volumes, and Qualifying Year TEU volumes must be greater than zero in order for an OCC to receive a payout for a given Incentive Period under the OCC Incentive Program.

The Ocean Common Carrier Incentive currently in the Tariff (to be replaced by the proposed Tariff amendment) paid $10.5 million to Ocean Common Carriers on 835,000 TEUs handled during calendar 2014 over calendar 2013. There was a 6% growth in POLA TEU throughput from calendar 2013 to 2014. The average amount paid per TEU to Ocean Common Carriers was $12.55. The additional criteria of the proposed OCC Incentive Program consisting of the Transpacific Market percentage growth, the $10 per TEU payout, and the $2,000,000 cap on payments to any individual carrier, are expected to result in a lower first year cost for the proposed OCC Incentive Program versus the prior incentive program.

Incentive amounts earned by OCCs that contributed to the Port's container volume growth will be directly paid as a one-time cash payment per year so long as the proposed OCC Incentive Program remains in effect.

If the proposed amendment is approved by the Board, funds for the OCC Incentive Program will be requested to be included in the FY 2020 budget as part of the annual budget adoption process, subject to Board approval.

CITY ATTORNEY

The Office of the City Attorney has approved the proposed Permanent Order and the proposed Ordinance as to form and legality.

TRANSMITTALS:

1. Permanent Order
2. Ordinance
3. Tariff No. 4 Section Two, Item No. 255
4. Tariff No. 4 Section Twenty-Three, Item Nos. 2320 and 2325

FIS Approval: MB
CA Approval: LHS

ERIC CARIS
Director of Cargo Marketing

MICHAEL DIBERNARDO
Deputy Executive Director

APPROVED:

EUGENE D. SEROKA
Executive Director

ES:MD:EC:ms
Author: Eric Caris