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Antonio R. Villaraigosa
Board of Harbor
Commissioners
Geraldine Knatz, Ph.D

Mayor, City of Los Angeles

S. David Freeman
President

Jerilyn López Mendoza
Vice President

Kaylynn L. Kim

Douglas P. Krause

Joseph R. Radisich

Executive Director

March 23, 2009

**Honorable Members of the
City Council of the
City of Los Angeles**

CD No. 15

Attention: Mr. Eric Villanueva, City Clerk's Office

SUBJECT: PERMANENT ORDER NO. 08-6976 AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION 21, ITEM NO. 2105, INFRASTRUCTURE CARGO FEE

Pursuant to Charter Section 653 (a) of the City Charter, enclosed for passage by your Honorable Body is an Ordinance approved as to form by the City Attorney, approving Order No. 08-6976, which was adopted by the Board of Harbor Commissioners at its meeting held December 18, 2008.

RECOMMENDATION:

That the City Council, subject to approval of the Mayor, adopt the proposed Permanent Board Order No. 08-6976 and Ordinance amending Port of Los Angeles Tariff No. 4, Section 21, Item No. 2105, Infrastructure Cargo Fee.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a tariff amendment to establish the Port ICF. The Director of Environmental Management has determined that the ICF is exempt from the California Environmental Quality Act (CEQA) as provided by § 15273 (rates, tolls, fares, and charges), and § 15061(b) (3) (no possibility of significant adverse effect on the environment) of the State CEQA Guidelines. Infrastructure Projects proposed to be funded by the ICF shall only qualify for funding after CEQA assessment and project approval by the applicable lead agency.

March 23, 2009

Honorable Members of the
City Council of the
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FINANCIAL IMPACT:

The POLA will likely incur various administrative and operational costs to collect/administer the ICF. These costs would be covered by monies collected from the ICF. Construction on these projects is expected to begin in 2010 and is programmed in the POLA Capital Improvement Program (CIP). As stated previously, all expenses incurred after environmental approval that are paid with budgeted Port general revenue will be recouped via the ICF during the construction phase. The total cost for these projects is estimated at \$278.4 million (which includes staff and consultant/contractor costs for: preliminary engineering, environmental, PS&E, right-of-way/utilities, and construction). The ICF eligible Engineering Design Services (Account No. 54220) expenses expected to be incurred in CY09 are as follows:

Project	ICF Eligible CY09	Account #	Job #	W.O. #
C Street Access Ramps	\$ 660,000	54220	203-26	24852
I-110 Fwy & SR 47/I-110 NB Connector Widening	\$ 746,000	54220	203-14	24661
West Basin Railyard	\$3,462,500	54220	635-00	24885
S. Wilmington Grade Sep.	\$ 941,500	54220	240-92	24236
Total	\$5,810,000			

March 23, 2009

**Honorable Members of the
City Council of the
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CD No. 15

It is also important to reiterate that the ICF funds are needed to provide the required match to federal grants and TCIF monies.

Respectfully submitted,



**ROSE M. DWORSHAK
Commission Secretary**

**cc: Trade, Commerce & Tourism Committee
Councilwoman Hahn, encs.
Councilman Rosendahl, encs.
Councilman LaBonge, encs.
Cecilia Moreno, encs.
Christine Yee Hollis, CLA, encs.
Alvin Newman, CAO, encs.
Jenny Chavez, CD 15, encs**

RECOMMENDATION APPROVED;
RESOLUTION NO. 08-6667 ADOPTED;
AND ORDER NO. 08-6976 ADOPTED
BY THE BOARD OF HARBOR COMMISSIONERS

December 18, 2008

Rose M. Dwarshak
SECRETARY



THE PORT
OF LOS ANGELES
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: December 11, 2008

FROM: GOODS MOVEMENT DIVISION

SUBJECT: RESOLUTION NO. 08-6667 PORT OF LONG BEACH AND PORT OF
LOS ANGELES (PORTS) INFRASTRUCTURE CARGO FEE

TEMPORARY ORDER NO. 08-6976 AND PERMANENT ORDER
NO. 08-6976 AMENDING PORT OF LOS ANGELES TARIFF
NO. 4, SECTION 21, ITEM NUMBER 2105 INFRASTRUCTURE
CARGO FEE

SUMMARY:

In January 2008, the Board of Harbor Commissioners approved the Infrastructure Cargo Fee (ICF), in the amount of \$15/loaded (import and exports) twenty-foot Equivalent Unit (TEU) to commence January 1, 2009. This fee was predicated upon environmental clearance of several projects occurring in 2008. To provide some financial relief for shippers, and partly because of modified project schedules, staff recommends the postponement of the ICF until the Port of Los Angeles (POLA) I-110 Connectors projects, or Alameda Corridor Transportation Authority (ACTA) SR 47 Expressway/C.S. Heim Bridge Replacement, or Port of Long Beach (POLB) Rail System projects receive environmental clearance, which is expected to occur the second half of 2009. As such, it is recommended that the ICF commence on July 1, 2009, and at a reduced amount of \$6/loaded TEU. The Port of Long Beach Board is expected to approve the ICF deferral on December 15, 2008.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the amendment to Port of Los Angeles Tariff No. 4, Section 21, item number 2105, to amend the date of ICF collection to commence on July 1, 2009, and the amount of the ICF to be \$6/loaded TEU. The Computation Methodology has been revised accordingly, and is attached to the order and ordinance implementing the amended tariff. This amendment shall be subject to California Association of Port Authorities (CAPA) review and approval, and the Executive Director is authorized to present the tariff amendment to CAPA to secure CAPA approval or proceed to take independent action in accordance with CAPA procedure;
2. Adopt an Order approving the amendment to Port of Los Angeles Tariff No. 4, Section 21, item number 2105 (Transmittal 2);

12-18-08
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DATE: December 11, 2008

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SUBJECT: RESOLUTION NO. 08-6667 PORT OF LONG BEACH AND PORT OF LOS ANGELES (PORTS) INFRASTRUCTURE CARGO FEE

TEMPORARY ORDER NO. 08-6976 AND PERMANENT ORDER NO. 08-6976 AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION 21, ITEM NUMBER 2105 INFRASTRUCTURE CARGO FEE

3. Approve the form of the Ordinance approving the Order (Transmittal 3);
4. Authorize the Board Secretary to certify to the adoption of the Order by the Board of Harbor Commissioners and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect prior to adoption by Ordinance for a period not to exceed 90 days pursuant to Charter Section 653(b);
5. Direct the Board Secretary to transmit to the Mayor and City Council for approval the Order and Ordinance approving and authorizing the amendment to Tariff No. 4 pursuant to City Charter 653(a); and
6. Authorize the Board Secretary to 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.

DISCUSSION:

In January 2008, the Board approved the ICF in the amount of \$15/loaded TEU to partially fund the following intermodal transportation system projects in the Ports:

- Gerald Desmond Bridge Replacement (POLB)
- SR-47 Expressway (ACTA)
- Navy Way/Seaside Avenue Interchange (POLA)
- I-110 Connectors Program (POLA)
- South Wilmington Grade Separation (POLA)
- Ports Rail System (Ports/ACTA); includes POLA West Basin (Berth 200) Railyard

To provide some financial relief for shippers, and partly because of modified project schedules, staff recommends the postponement of the ICF collection until either the POLA I-110 Connectors projects, ACTA SR 47, or POLB Rail System projects receive environmental clearance, which is expected to occur in the second half of 2009. As such, it is recommended that the ICF commence on July 1, 2009, and at a reduced amount of \$6/loaded TEU.

The approved ICF rate of \$15/loaded TEU commencing in January 2009 was predicated upon environmental clearance occurring in 2008 for the following projects:

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SUBJECT: RESOLUTION NO. 08-6667 PORT OF LONG BEACH AND PORT OF LOS ANGELES (PORTS) INFRASTRUCTURE CARGO FEE

TEMPORARY ORDER NO. 08-6976 AND PERMANENT ORDER NO. 08-6976 AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION 21, ITEM NUMBER 2105 INFRASTRUCTURE CARGO FEE

South Wilmington grade separation, SR 47 Expressway, I-110 Connectors, and elements of the Ports Rail System (including the POLA West Basin Railyard). It was also anticipated that the Board would need to adjust the ICF rate, most likely on an annual basis, based on the following: updated container volumes and projections, project schedules, public funding availability, anticipated expenditures, ICF fund balance, and also to add a fee for non-containerized cargo (excluding liquid bulk). The Wilmington grade separation and West Basin Railyard projects are eligible for ICF funds in January 2009, as they both received environmental clearance in 2008. The updated ICF and covered expenses for the POLA projects to be collected in calendar year (CY) 2009 are shown in the table below, and account for the recently approved Prop. 1B Trade Corridors Improvement Funds (TCIF) that can only be used for the construction phase:

CY 2009 ICF

Project	\$/loaded TEU	ICF Eligible Expenses CY2009
C Street Access Ramps	\$0.14	\$660,000
I-110 Fwy Ramp & SR 47/I-110 NB Connector Widening	\$0.24	\$746,000
West Basin Railyard	\$1.23	\$3,462,500
S. Wilmington Grade Separation	\$0.45	\$941,500
POLA Subtotals	\$2.06	\$5,810,000
POLB Rail System (3 projects)	\$1.43	\$9,290,000
ACTA SR 47 Expressway	\$2.39	\$24,500,000

As can be seen, the estimated ICF rate would be relatively low (\$1.68/loaded TEU) if collection commenced in January 2009 for only the West Basin Railyard and Wilmington grade separation. Project development expenses incurred after environmental clearance and before the eventual ICF collection for any project will be recouped via a modified fee rate in the first year of the construction phase. The recouping, and also the annual ICF rate, is dependent upon project schedules/costs and container volumes, which will be carefully monitored throughout the year to ensure the ICF rate is adequate once implemented and deferred expenses are sufficiently recouped. It is also important to note that the ICF rate for non-containerized cargo will still need to be computed and incorporated into the tariff. Staff is presently working with the POLB on this element. The Computation Methodology has been revised and is attached to the order and ordinance implementing the amended tariff.

DATE: December 11, 2008

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SUBJECT: RESOLUTION NO. 08-6667 PORT OF LONG BEACH AND PORT OF LOS ANGELES (PORTS) INFRASTRUCTURE CARGO FEE

TEMPORARY ORDER NO. 08-6976 AND PERMANENT ORDER NO. 08-6976 AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION 21, ITEM NUMBER 2105 INFRASTRUCTURE CARGO FEE

ECONOMIC BENEFITS:

This postponement of the ICF implementation to July 2009 will not delay the project implementation, but will merely defer the ICF collection. As such, the previous job estimates are still valid (see Transmittal # 4, prior Board action).

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a tariff amendment to establish the Port ICF. The Director of Environmental Management has determined that the ICF is exempt from the California Environmental Quality Act (CEQA) as provided by §15273 (rates, tolls, fares, and charges), and §15061(b) (3) (no possibility of significant adverse effect on the environment) of the State CEQA Guidelines. Infrastructure Projects proposed to be funded by the ICF shall only qualify for funding after CEQA assessment and project approval by the applicable lead agency.

FINANCIAL IMPACT:

The POLA will likely incur various administrative and operational costs to collect/administer the ICF. These costs would be covered by monies collected from the ICF. Construction on these projects is expected to begin in 2010 and is programmed in the POLA Capital Improvement Program (CIP). As stated previously, all expenses incurred after environmental approval that are paid with budgeted Port general revenue will be recouped via the ICF during the construction phase. The total cost for these projects is estimated at \$278.4 million (which includes staff and consultant/contractor costs for: preliminary engineering, environmental, PS&E, right-of-way/utilities, and construction). The ICF eligible Engineering Design Services (Account No. 54220) expenses expected to be incurred in CY09 are as follows:

Project	ICF Eligible CY09	Account #	Job #	W.O. #
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Total	\$5,810,000			

It is also important to reiterate that the ICF funds are needed to provide the required match to federal grants and TCIF monies.

DATE: December 11, 2008

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SUBJECT: RESOLUTION NO. 08-6667 PORT OF LONG BEACH AND PORT OF LOS ANGELES (PORTS) INFRASTRUCTURE CARGO FEE

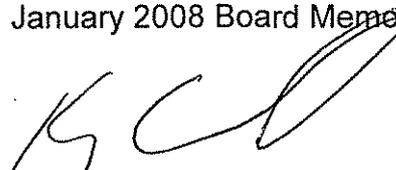
TEMPORARY ORDER NO. 08-6976 AND PERMANENT ORDER NO. 08-6976 AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION 21, ITEM NUMBER 2105 INFRASTRUCTURE CARGO FEE

CITY ATTORNEY:

The office of the City Attorney has reviewed and approved as to form and legality the proposed Tariff amendment, Order and Ordinance, to amend the ICF Tariff.

TRANSMITTALS:

1. Tariff
2. Order
3. Ordinance
4. January 2008 Board Memo


KERRY CARTWRIGHT, P.E.
Director of Goods Movement


MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director

Attachments

KC:jb
POLA IECF Board memo final

RECEIVED
OFFICE OF
SECRETARY
08 DEC 12 PM 4:55
CITY OF LOS ANGELES
BOARD OF HARBOR
COMMISSIONERS

ORDER NO. 08 - 6976

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

FINDINGS

BACKGROUND

1. On July 12, 1989, the Board of Harbor Commissioners of the City of Los Angeles adopted Order No. 5837, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 165789, adopted on April 10, 1990. Said Order and Ordinance designated Port of Los Angeles Tariff No. 4, which sets forth rates at which, and terms under which, the Port of Los Angeles, California is willing to provide marine terminal services. Tariff No. 4 has been amended from time to time since 1989. The current version of Tariff No. 4 is made available to the public on the Port of Los Angeles website at www.portoflosangeles.org.
2. On January 14, 2008, the Board adopted Order No. 6950, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 179982, adopted on June 17, 2008. Said Order and Ordinance amended Tariff No. 4 by adding Section 21 Infrastructure Fee, establishing an infrastructure cargo fee.
3. On March 20, 2008, the Board adopted Order No. 6956, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 179981, adopted on June 17, 2008. Said Order and Ordinance amended Tariff No. 4 by, among other things, modifying Section 21 Infrastructure Fee, to clarify and harmonize the Infrastructure Fee and the Clean Truck Fee under Section 20 of the Tariff.
4. The Board now wishes to further amend Port of Los Angeles Tariff No. 4 by revising Section 21, Items 2105, to amend the date of commencement of collection of the Infrastructure Fee to July 1, 2009 and the amount of the Infrastructure Fee to Six Dollars (\$6) per Twenty Foot Equivalent Unit (TEU), and revise the Computation Methodology as set forth on the attached Exhibit "A".

NOW, THEREFORE, THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LOS ANGELES DOES HEREBY ORDER AS FOLLOWS:

Section 1. The Board of Harbor Commissioners of the City of Los Angeles hereby adopts the findings set forth above.

Section 2. The 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 "B," attached hereto and incorporated herein by reference.

Section 3. The Director of Environmental Management has determined that these amendments to the Tariff are exempt from the California Environmental Quality Act (CEQA) as provided by the following sections of the State of California CEQA Guidelines in California Public Resources Code 21084, Title 14 of the California Code of Regulations, Section 15273 (rates, tolls, fares, and charges), and Section 15061(b) (3) (no possibility of significant adverse effect on the environment). Infrastructure Projects proposed to be funded by the Infrastructure Fee shall only qualify for funding by the Infrastructure Fee after CEQA assessment and project approval by the applicable lead agency.

Section 4. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners and shall cause the same to be presented to the Mayor and the City Council for consideration of its adoption by Ordinance.

Section 5. Pursuant to Charter Section 653(a), this amendment to the Tariff shall become effective when this Order is approved by the City Council by Ordinance; provided, however, pursuant to Charter Section 653(b), this Order shall be effective prior to adoption by Ordinance for a period not to exceed 90 days from the date of its adoption.

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 *December 18, 2008.*

Rose M. Dworshak

ROSE DWORSHAK
Acting Board Secretary

APPROVED AS TO FORM

January 28, 2008
ROCKARD J. DELGADILLO, City Attorney

By *Joy M. Crose*
JOY CROSE, Assistant General Counsel

SECTION TWENTY-ONE INFRASTRUCTURE FEE	Item No.
<p style="text-align: center;">DEFINITIONS INFRASTRUCTURE FEE</p> <p>* For purposes of Section 21 the following definitions shall apply:</p> <p>“Ports” shall mean all waterfront property owned by the Ports of Los Angeles and Long Beach.</p> <p>“Ports Rail System” shall mean: a Pier B Street Intermodal rail yard expansion, Terminal Island Wye Track Realignment, Pier B Street Realignment, Track Realignment at Ocean Boulevard/Harbor Scenic Drive, Pier F Support Yard, West Basin Rail Access Improvements, Grade Separation for Reeves Crossing, Closure of Reeves at-grade Crossing, Navy Mole Road Storage Rail Yard, Pier 400 Second Lead Track, Reconfiguration at CP Mole, Triple Track Badger Bridge, and Triple Track South of Thenard Jct.</p> <p>“Highway Projects” shall mean the Gerald Desmond Bridge Replacement, the SR-47 Expressway (including replacement of the Heim Bridge), the Navy Way/Seaside Avenue Interchange, the South Wilmington grade separation, and the I-110 Connectors Program (which includes: I-110/SR-47/Harbor Boulevard interchange improvements, I-110/“C” Street interchange improvements, John S. Gibson intersection and I-110 ramp access improvements, and SR-47 on-ramp and off-ramp improvements at Front Street).</p> <p>“Infrastructure Projects” shall include the Ports Rail System and Highway Projects.</p> <p>“Approved Infrastructure Projects” shall mean all Infrastructure Projects which have been: (1) approved by the applicable lead agency as defined in Section 21067 of the California Public Resources Code; and (2) determined by the Boards of Harbor Commissioners of Los Angeles and Long Beach to be eligible for use of tidelands funds.</p> <p>“Port Infrastructure Fund” shall mean a restricted fund to be used exclusively for payment of the Ports’ allocable share, using the Computation Methodology, of costs of Approved Infrastructure Projects that are incurred following the approval of the Approved Infrastructure Projects by the applicable lead agencies. The Port Infrastructure Fund shall be comprised of the monies collected from the Infrastructure Fee on Containers under Item 2105.</p>	<p>[C] 2100</p>
<p>See Item 10 for explanation of abbreviations and symbols.</p>	

Correction No.	Order No. Ordinance No.	Adopted Adopted	EFFECTIVE:
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SECTION TWENTY-ONE -- Continued INFRASTRUCTURE FEE -- Continued	Item No.
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<p style="text-align: center;">DEFINITIONS INFRASTRUCTURE FEE --Continued</p> <p>“Terminal” shall mean any facility in the Port of Los Angeles used for the transfer of cargo from one mode to another, including all container terminals, break-bulk terminals, dry bulk terminals and rail yards.</p> <p>“Terminal Operator” shall mean the entity with contractual authority from the Port of Los Angeles to operate a Terminal.</p> <p>* “Computation Methodology” shall mean the methodology described in the document entitled Methodology for Determining Infrastructure Cargo Fee dated December 9, 2008, a copy of which is attached to the implementing ordinance for this Section.</p>	[C] 2100 (Cont.)
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<p style="text-align: center;">INFRASTRUCTURE FEE ON CONTAINERS</p> <p>* Beginning July 1, 2009 at 8:00 a.m., an Infrastructure Fee on Containers of Six dollars (\$6.00) per twenty foot equivalent unit shall be assessed on containerized merchandise entering or leaving any Terminal in the Port of Los Angeles. The Infrastructure Fee on Containers shall be paid by the cargo owner, notwithstanding anything to the contrary in Items 265 (c) or 265 (i) of this Tariff. As Infrastructure Projects are approved by the applicable lead agencies, and from time to time thereafter, the Executive Directors of the Ports of Long Beach and Los Angeles (“Executive Directors”) shall have the Infrastructure Fee on Containers recomputed using the Computation Methodology and this tariff shall be amended to reflect the amount so computed. The Infrastructure Fee on Containers shall not be assessed on any containerized merchandise moved between two terminals within the Ports. The Infrastructure Fee on Containers shall no longer be collected: (a) after the share of Approved Infrastructure Project costs allocable to be recovered by the Port Infrastructure Fund have been paid in full; (b) after the Executive Directors determine that the Infrastructure Fund balance is sufficient to pay all such costs; or (c) if the Clean Truck Fee (Item 2030 of this Tariff) cannot be collected, whichever occurs first.</p>	[C] [R] 2105
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See Item 10 for explanation of abbreviations and symbols.

Correction No.	Order No. Ordinance No.	Adopted Adopted	EFFECTIVE:
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SECTION TWENTY-ONE -- Continued
 INFRASTRUCTURE FEE -- Continued

PORT INFRASTRUCTURE FUND

The first Terminal Operator to handle containerized merchandise subject to the Infrastructure Fee on Containers shall collect and remit the Infrastructure Fee on Containers to the Port of Los Angeles, to be held in the Port Infrastructure Fund and used exclusively for Approved Infrastructure Projects. If the share of Approved Infrastructure Projects costs allocable to be recovered from the Port Infrastructure Fund have been fully paid and funds remain in the Port Infrastructure Fund, these funds may be used for additional infrastructure projects of similar utility to the Approved Infrastructure Projects which are approved by the Board of Harbor Commissioners to be funded by the Port Infrastructure Fund.

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See Item 10 for explanation of abbreviations and symbols.

Correction No. 407	Order No. 6950 Ordinance No. 179982	Adopted January 14, 2008 Adopted June 17, 2008	EFFECTIVE: August 3, 2008
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ORDINANCE NO. _____

An ordinance approving Order No. 08-6976 of the Board of Harbor Commissioners of the City of Los Angeles, amending the Port of Los Angeles Tariff No. 4.

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

Section 1. That Order No. 08-6976, passed and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the 18th day of, Dec. 2008, amending Port of Los Angeles Tariff No. 4, is hereby ratified, confirmed, and approved. This Order is in words and figures as follows:

"ORDER NO. 08 - 6 9 7 6 "1

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

FINDINGS

BACKGROUND

1. On July 12, 1989, the Board of Harbor Commissioners of the City of Los Angeles adopted Order No. 5837, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 165789, adopted on April 10, 1990. Said Order and Ordinance designated Port of Los Angeles Tariff No. 4, which sets forth rates at which, and terms under which, the Port of Los Angeles, California is willing to provide marine terminal services. Tariff No. 4 has been amended from time to time since 1989. The current version of Tariff No. 4 is made available to the public on the Port of Los Angeles website at www.portoflosangeles.org.
2. On January 14, 2008, the Board adopted Order No. 6950, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 179982, adopted on June 17, 2008. Said Order and Ordinance amended Tariff No. 4 by adding Section 21 Infrastructure Fee, establishing an infrastructure cargo fee.
3. On March 20, 2008, the Board adopted Order No. 6956, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 179981, adopted on June 17, 2008. Said Order and Ordinance amended Tariff No. 4 by, among other things, modifying Section 21 Infrastructure Fee, to clarify and harmonize the Infrastructure Fee and the Clean Truck Fee under Section 20 of the Tariff.
4. The Board now wishes to further amend Port of Los Angeles Tariff No. 4 by revising Section 21, Items 2105, to amend the date of commencement of

collection of the Infrastructure Fee to July 1, 2009 and the amount of the Infrastructure Fee to Six Dollars (\$6) per Twenty Foot Equivalent Unit (TEU), and revise the Computation Methodology as set forth on the attached Exhibit "A".

NOW, THEREFORE, THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LOS ANGELES DOES HEREBY ORDER AS FOLLOWS:

Section 1. The Board of Harbor Commissioners of the City of Los Angeles hereby adopts the findings set forth above.

Section 2. The 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 "B," attached hereto and incorporated herein by reference.

Section 3. The Director of Environmental Management has determined that these amendments to the Tariff are exempt from the California Environmental Quality Act (CEQA) as provided by the following sections of the State of California CEQA Guidelines in California Public Resources Code 21084, Title 14 of the California Code of Regulations, Section 15273 (rates, tolls, fares, and charges), and Section 15061(b) (3) (no possibility of significant adverse effect on the environment). Infrastructure Projects proposed to be funded by the Infrastructure Fee shall only qualify for funding by the Infrastructure Fee after CEQA assessment and project approval by the applicable lead agency.

Section 4. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners and shall cause the same to be presented to the Mayor and the City Council for consideration of its adoption by Ordinance.

Section 5. Pursuant to Charter Section 653(a), this amendment to the Tariff shall become effective when this Order is approved by the City Council by Ordinance; provided, however, pursuant to Charter Section 653(b), this Order shall be effective prior to adoption by Ordinance for a period not to exceed 90 days from the date of its adoption.

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 *December 18, 2008*

Rose M. Dworshak

ROSE DWORSHAK
Acting Board Secretary"

Section 2. Any person, firm or corporation who violates or knowingly aids or abets a violation of any of the provisions of this Order respecting the rules, regulations, rates or charges shall be deemed guilty of a misdemeanor, and, upon conviction shall be punishable by a fine in a sum not exceeding \$1,000.00, or by imprisonment in the County jail for not more than six months, or by both fine and imprisonment.

Section 3. 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 this Order of the Board of Harbor Commissioners for periods not exceeding 90 days, and shall have power to place in effect for a like period of time any temporary rule or regulation, or rate, toll or charge for the Harbor District.

Section 4. 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.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

KAREN E. KALFAYAN,
Interim City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By *Joy Crose*
JOY CROSE
Assistant General Counsel

Date *January 28, 2009*

File No. _____

SECTION TWENTY-ONE
 INFRASTRUCTURE FEE

Item No.

DEFINITIONS INFRASTRUCTURE FEE

* For purposes of Section 21 the following definitions shall apply:

“Ports” shall mean all waterfront property owned by the Ports of Los Angeles and Long Beach.

“Ports Rail System” shall mean: a Pier B Street Intermodal rail yard expansion, Terminal Island Wye Track Realignment, Pier B Street Realignment, Track Realignment at Ocean Boulevard/Harbor Scenic Drive, Pier F Support Yard, West Basin Rail Access Improvements, Grade Separation for Reeves Crossing, Closure of Reeves at-grade Crossing, Navy Mole Road Storage Rail Yard, Pier 400 Second Lead Track, Reconfiguration at CP Mole, Triple Track Badger Bridge, and Triple Track South of Thenard Jct.

“Highway Projects” shall mean the Gerald Desmond Bridge Replacement, the SR-47 Expressway (including replacement of the Heim Bridge), the Navy Way/Seaside Avenue Interchange, the South Wilmington grade separation, and the I-110 Connectors Program (which includes: I-110/SR-47/Harbor Boulevard interchange improvements, I-110/”C” Street interchange improvements, John S. Gibson intersection and I-110 ramp access improvements, and SR-47 on-ramp and off-ramp improvements at Front Street).

“Infrastructure Projects” shall include the Ports Rail System and Highway Projects.

“Approved Infrastructure Projects” shall mean all Infrastructure Projects which have been: (1) approved by the applicable lead agency as defined in Section 21067 of the California Public Resources Code; and (2) determined by the Boards of Harbor Commissioners of Los Angeles and Long Beach to be eligible for use of tidelands funds.

“Port Infrastructure Fund” shall mean a restricted fund to be used exclusively for payment of the Ports’ allocable share, using the Computation Methodology, of costs of Approved Infrastructure Projects that are incurred following the approval of the Approved Infrastructure Projects by the applicable lead agencies. The Port Infrastructure Fund shall be comprised of the monies collected from the Infrastructure Fee on Containers under Item 2105.

[C]
 2100

See Item 10 for explanation of abbreviations and symbols.

Correction No.	Order No. Ordinance No.	Adopted Adopted	EFFECTIVE:
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SECTION TWENTY-ONE -- Continued INFRASTRUCTURE FEE -- Continued		Item No.
DEFINITIONS INFRASTRUCTURE FEE --Continued		
<p>“Terminal” shall mean any facility in the Port of Los Angeles used for the transfer of cargo from one mode to another, including all container terminals, break-bulk terminals, dry bulk terminals and rail yards.</p> <p>“Terminal Operator” shall mean the entity with contractual authority from the Port of Los Angeles to operate a Terminal.</p> <p>* “Computation Methodology” shall mean the methodology described in the document entitled Methodology for Determining Infrastructure Cargo Fee dated December 9, 2008, a copy of which is attached to the implementing ordinance for this Section.</p>		[C] 2100 (Cont.)
INFRASTRUCTURE FEE ON CONTAINERS		
<p>* Beginning July 1, 2009 at 8:00 a.m., an Infrastructure Fee on Containers of Six dollars (\$6.00) per twenty foot equivalent unit shall be assessed on containerized merchandise entering or leaving any Terminal in the Port of Los Angeles. The Infrastructure Fee on Containers shall be paid by the cargo owner, notwithstanding anything to the contrary in Items 265 (c) or 265 (i) of this Tariff. As Infrastructure Projects are approved by the applicable lead agencies, and from time to time thereafter, the Executive Directors of the Ports of Long Beach and Los Angeles (“Executive Directors”) shall have the Infrastructure Fee on Containers recomputed using the Computation Methodology and this tariff shall be amended to reflect the amount so computed. The Infrastructure Fee on Containers shall not be assessed on any containerized merchandise moved between two terminals within the Ports. The Infrastructure Fee on Containers shall no longer be collected: (a) after the share of Approved Infrastructure Project costs allocable to be recovered by the Port Infrastructure Fund have been paid in full; (b) after the Executive Directors determine that the Infrastructure Fund balance is sufficient to pay all such costs; or (c) if the Clean Truck Fee (Item 2030 of this Tariff) cannot be collected, whichever occurs first.</p>		[C] [R] 2105
See Item 10 for explanation of abbreviations and symbols.		

Correction No.	Order No. Ordinance No.	Adopted Adopted	EFFECTIVE:
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SECTION TWENTY-ONE -- Continued
 INFRASTRUCTURE FEE -- Continued

PORT INFRASTRUCTURE FUND

The first Terminal Operator to handle containerized merchandise subject to the Infrastructure Fee on Containers shall collect and remit the Infrastructure Fee on Containers to the Port of Los Angeles, to be held in the Port Infrastructure Fund and used exclusively for Approved Infrastructure Projects. If the share of Approved Infrastructure Projects costs allocable to be recovered from the Port Infrastructure Fund have been fully paid and funds remain in the Port Infrastructure Fund, these funds may be used for additional infrastructure projects of similar utility to the Approved Infrastructure Projects which are approved by the Board of Harbor Commissioners to be funded by the Port Infrastructure Fund.

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See Item 10 for explanation of abbreviations and symbols.

Correction No. 407	Order No. 6950 Ordinance No. 179982	Adopted January 14, 2008 Adopted June 17, 2008	EFFECTIVE: August 3, 2008
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OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. 09-0034
JAN 28 2009

REPORT RE:

**DRAFT ORDINANCE AMENDING PORT OF LOS ANGELES
TARIFF NO. 4 SECTION 21 - INFRASTRUCTURE FEE**

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

Honorable Members:

This office has prepared and now transmits for your action the attached draft ordinance, approved as to form and legality. This draft ordinance amends the Port of Los Angeles Tariff No. 4, Section 21 – Infrastructure Fee (IF).

Charter Findings

On December 18, 2008, pursuant to Los Angeles City Charter Sections 652(a), 652(c), 652(e), and 653(a) the Los Angeles Board of Harbor Commissioners adopted Order No. 08-6976, approved the attached draft ordinance, and recommended that the City Council adopt it. Under Charter Section 653(a), BOHC Order No. 08-6976 must be approved by the City Council in order to become effective.

CEQA Findings

The draft ordinance approves an Order of the Los Angeles Board of Harbor Commissioners, which amends the Port's Tariff regarding an Infrastructure Fee. The amendment will delay the commencement date of IF fee collection and the amount of the IF, due to the delays in the project approvals of qualifying projects for funding. As such, the Harbor Department Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Sections 15273 (rates, fees and charges) and



15061 (b) (3) (no significant effect on environment) of the State CEQA Guidelines. Infrastructure Projects proposed to be funded by the IF shall only qualify for funding after CEQA assessment and project approval by the applicable lead agency.

Background

On January 14, 2008, the Board of Harbor Commissioners adopted an Infrastructure Fee to fund local highway and rail infrastructure projects impacted by Port goods movement that the Board determined would ease congestion, help move goods more efficiently, and reduce air pollution. The Board approved Order No. 6950, establishing Section 21, Infrastructure Fee, as a new item under Port of Los Angeles Tariff No. 4, which was approved by the City Council in Ordinance No. 179982, adopted by the City Council on June 17, 2008.

On March 20, 2008, the Board of Harbor Commissioners adopted Order No. 6956, which, among other things, revised the language in Section 21 of Tariff No. 4 in order to clarify and harmonize the Infrastructure Fee with the Clean Truck Fee. Order No. 6956 was approved by the City Council in Ordinance No. 179981, adopted by the City Council on June 17, 2008.

Summary of Ordinance Provisions

The Ordinance approves Board of Harbor Commissioners Order No. 08-6976, which adopts an amendment to Port of Los Angeles Tariff No. 4, and which would:

- (1) revise Section 21, Items 2105 to amend the date of commencement of collection of the Infrastructure Fee to July 1, 2009; and
- (2) revise Section 21, Item 2105 to amend the amount of the Infrastructure Fee to Six Dollars (\$6) per Twenty Foot Equivalent Unit (TEU); and
- (3) revise the reference to "Computation Methodology" in the tariff definitions section, to the updated methodology dated December 9, 2008.

The above amendments will delay the commencement date of IF fee collection and the amount of the IF, due to the delays in the project approvals of qualifying projects for funding.

Fee Notice Requirement

The attached final draft ordinance contains an Infrastructure Fee assessed on merchandise. Authority to charge and enforce fees is given to the Board of Harbor Commissioners under Los Angeles City Charter Sections 652(e) and 653(a). Pursuant to Charter Section 653(a), the proper procedure for fee approval is for City Council to approve by ordinance the Board of Harbor Commissioners' Order setting these fees,

which go to the Harbor Revenue Fund. The Board of Harbor Commissioners held public board meetings on January 14, 2008, and March 20, 2008, at which meetings the Infrastructure Fee was presented and discussed by the Board and the public prior to adoption of BOHC Orders adopting the fee on January 14, 2008, and further amending the fee on March 20, 2008. The requirements of Government Code Sections 66016 and 66018, requiring City Council public fee hearings, are not applicable to these types of fees.

Council Rule 38 Referral

The Harbor Department, through staff responsible for administration and implementation of the Tariff amendment, is the proposing department; and the Tariff amendment was discussed and debated before the Board of Harbor Commissioners with Harbor Department management and staff present in a full public hearing of the Board of Harbor Commissioners on December 18, 2008.

If you have any questions, please contact Joy Crose at 310.732-3750. She or another member of this office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:JC:lee
Transmittal

RECEIVED
OFFICE OF
SECRETARY
09 MAR 23 PM 1:34
CITY OF LOS ANGELES
BOARD OF HARBOR
COMMISSIONERS

TRANSMITTAL		0150-03656-0054
TO Geraldine Knatz, Ph.D., Executive Director Harbor Department	DATE MAR 20 2009	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 15	
<p>A PROPOSED PERMANENT ORDER NO. 08-6976 TO AMEND THE PORT OF LOS ANGELES TARIFF NO. 4, SECTION NO. 21, ITEM NO. 2105, THE INFRASTRUCTURE CARGO FEE</p> <p>Transmitted for further processing and Council consideration. See the City Administrative Officer report attached.</p> <p style="text-align: center;"><i>Donald Campbell for H6</i></p> <p style="text-align: center;">MAYOR</p>		
RPC:ABN:10090109t		

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: March 12, 2009

CAO File No. 0150-03656-0054

Council File No.

Council District: 15

To: The Mayor

From: Raymond P. Ciranna, Interim City Administrative Officer 

Reference: Transmittal from the Harbor Department dated February 6, 2009; referred by the Mayor for report dated February 11, 2009

Subject: **PROPOSED PERMANENT ORDER NO. 08-6976 TO AMEND THE PORT OF LOS ANGELES TARIFF NO. 4, SECTION NO. 21, ITEM NO. 2105, THE INFRASTRUCTURE CARGO FEE**

SUMMARY

The Harbor Department requests approval of Permanent Order (Order) No. 08-6976 and an Ordinance to amend the Port of Los Angeles (POLA) Tariff No. 4 (Port Fees, Rules and Regulations Manual), Section No. 21, Item No. 2105, the Infrastructure Cargo Fee (ICF). The POLA and Port of Long Beach (POLB) jointly established the ICF, which is a fee assessed on containerized cargo merchandise entering or leaving any terminals in the Port areas, except for those moving between terminals. According to the Port, these fees will assist in providing financial support to reduce Port-related air emissions and traffic congestion through the development and improvement of rail and highway systems. The proposed amendment will reduce the rates charged and delay implementation of portions of the improvement projects. The ICF rates are based on twenty-foot equivalent unit (TEU) cargo-loaded trucks and used exclusively for Infrastructure Projects, as explained below. The fees are phased in as projects are approved by the Board of Harbor Commissioners (Board) and become ready for implementation. The fees will end upon completion of the Projects. In accordance with Charter Section 652, the Council must approve the Ordinance to amend Section No. 21 in Tariff No. 4 before it can become effective. The City Attorney has approved the proposed Order and draft Ordinance as to form.

BACKGROUND

In November 2006, the POLA and POLB approved the Clean Air Action Plan (CAAP). The CAAP is a comprehensive strategy to reduce health risks posed by port-related air pollution from trucks, ships, locomotives, harbor craft, cargo handling and other pollution causing equipment. In January 2008, the POLA and POLB approved the ICF to assist in providing funds for approved Infrastructure Projects to improve railways, local streets and State highways. The participating agencies included: POLA and POLB; Alameda Corridor Transportation Agency (ACTA); and, various other Federal, State and local agencies. The ICF Program also includes participation from private industry through

the collection of fees on loaded TEUs for containerized cargo merchandise. The Board and Council approved the ICF rate in the amount of \$15 per loaded TEU trucks for imported and exported merchandise to partially fund and share in the costs for the proposed Projects (C.F. 08-0886). Below are the approved Infrastructure Projects and lead agencies:

Port-Area Highway& Rail Projects	Lead Agencies
Gerald Desmond Bridge Replacement	POLB
SR-47 Expressway	ACTA
Navy Way/Seaside Avenue Interchange	POLA
I-110 Connectors Program	POLA
South Wilmington grade separation	POLA
Sub-Total Highways	
Port-Area Railroad Projects	POLA/POLB & ACTA

AMENDMENT TO PORT INFRASTRUCTURE CARGO FEE PROVISION

The POLA and POLB had approved and scheduled the ICF Program to begin in January 2009 and assessed the user fee of \$15 per loaded TEU truck. However, the Ports have now decided to amend the Tariff No. 4 to: (1) reduce the collected ICF rate to approximately \$6 per TEU (instead of \$15 per TEU) to provide additional financial relief for shippers (2) modify the project schedules to allow more time to complete the environmental aspects for the various Infrastructure Projects; and, (3) postpone the beginning date from January to July 2009. The Port states that postponement of the ICF to July 2009 will defer the collection of ICF funds (\$6 per TEU), although the project implementation schedules will remain the same.

Revenue from the ICF fee rates is contingent upon the following: container projections and volumes; public funding availability; and, the possible future addition of a fee for non-containerized cargo (that will exclude liquid bulk cargo). The Port states that the estimated revenue from the collected fees must be sufficient to meet the necessary funding for the infrastructure program and that the Board may decide to adjust future ICF rates, possibly on an annual basis, based on project schedules, costs, fund availability and container volumes.

The TEU fees were based, in part, on the completion of the environmental aspects and construction phase for several Infrastructure Projects implemented in 2008. The completion of the environmental review for the Infrastructure Projects is expected to take place in the second half of 2009 for the following projects: POLA/I-110 Connectors Program; ACTA/SR-47 Expressway; and, POLA/POLB and ACTA/Port-Area Railroad Projects. The Port and other agencies have completed the environmental clearances for POLA/South Wilmington grade and POLA/West Basin Railyard and will complete the environmental component for the other projects in the future. According to the Port, the total cost for the Infrastructure Projects has been estimated at approximately \$278 million and will include the following expenditures: staffing; consultant and contractors; project development; engineering design; environmental assessment and clearance; utilities; and construction.

The Port Director of Environmental Management has determined that the proposed amendment to

Tariff No. 4, Section No. 21, Item No. 2105 on the ICF is exempt from the California Environmental Quality Act (CEQA) as provided by Section 15273 and Section 15061(b)(3) of the State CEQA Guidelines. The proposed Infrastructure Projects will only qualify for funding after the CEQA assessment and project approval by the applicable lead agencies.

RECOMMENDATION

That the Mayor approve the proposed Harbor Department (Port) Board of Harbor Commissioners Resolution No. 08-6976 and corresponding Ordinance to amend the Port of Los Angeles Tariff No. 4 (Port Fees, Rules and Regulations Manual), Section No. 21, Item No. 2105, the Infrastructure Cargo Fee (ICF) and return the document to the Port for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed Amendment to the Harbor Department (Port) Tariff No. 4, Section No. 21, Item No. 2105, the Infrastructure Cargo Fee (ICF) will authorize the Port to incur administrative and operational costs in the collection of fees for the ICF program. A percentage of eligible revenue in 2009 will be paid by the Port of Los Angeles (POLA) and Port of Long Beach (POLB) and reimbursed from the collection of fees from fees assessed to twenty-foot equivalent unit (TEU) cargo-loaded trucks (and their companies). For 2009, the Port has estimated this amount at approximately \$5.8 million for POLA and approximately \$24.5 million for all other participating agencies. The total cost for the Infrastructure Projects has been estimated at approximately \$278 million. Since the Port is only bound by the City Debt Management Policies, the City Financial Policies are not applicable. There is no impact on the City General Fund and applicable funding has been budgeted in the Port's Capital Improvement Program and the Harbor Revenue Fund.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 653, the Board can authorize Permanent Order No. 08-6976, the Amendment to Tariff No. 4, for a period not to exceed 90 days without Council approval. This Order must be approved by Council and Mayor by Ordinance before it becomes effective. The Charter does not specify a time for this action by the Mayor and Council.