



DATE: MAY 7, 2013

FROM: BUSINESS & TRADE DEVELOPMENT

**SUBJECT: ORDER NO. _____ REPLACING PORT OF LOS ANGELES
FOREIGN-TRADE ZONE TARIFF NO. 1 WITH FOREIGN-TRADE ZONE
TARIFF NO. 2**

SUMMARY:

The City of Los Angeles Harbor Department (Harbor Department) as Foreign-Trade Zone (FTZ) grantee is required to publish a FTZ tariff. The Port of Los Angeles (Port) FTZ Tariff No. 1 (Tariff No. 1) was published on August 3, 1995. On July 7, 2011 the Board of Harbor Commissioners (Board) adopted an Alternative Site Framework (ASF) that facilitates more efficient General Purpose FTZ site approvals. The adoption of the ASF program requires updates to be made to Tariff No. 1. The revisions include additional administrative procedures and new Federal terminology. Additionally, a significant change was made to the FTZ Regulations (published February 2012) that requires each Zone Grantee to maintain a Zone Schedule/Tariff that meets the Uniform Treatment provision of the regulations. Tariff No. 2 includes all these changes to ensure compliance by the Harbor Department. At the same time, staff took the opportunity to evaluate the cost to manage the FTZ program. This evaluation resulted in a proposal to increase the annual FTZ fees to meet our actual cost to manage the program. Due to the significant changes needed to a Tariff No. 1, staff recommends the Board approve replacing Tariff No. 1 with a new FTZ Tariff No. 2 (Tariff No. 2).

RECOMMENDATIONS:

It is recommended that the Board of Harbor Commissioners:

1. Approve proposed Port of Los Angeles Foreign-Trade Zone Tariff No. 2;
2. Adopt Order _____ replacing Port of Los Angeles Foreign-Trade Zone Tariff No. 1 with Port of Los Angeles Foreign-Trade Zone Tariff No. 2;
3. Direct the Board Secretary to transmit to the City Council for approval the Order and the Ordinance approving and authorizing the proposed Port of Los Angeles Foreign-Trade Zone Tariff No. 2 pursuant to City Charter 653(a); and
4. After the effective date of the Ordinance, authorize the Board Secretary to transmit the Order and Ordinance to the Foreign-Trade Zone Manager for implementation and posting to the Port of Los Angeles website.

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DISCUSSION:

Background/Context – The FTZ Act of 1934, as amended (19 U.S.C. 81a-81u), was established to support U.S. commerce and create jobs by reducing import duties and excise taxes by deferring payment of such duties thereby making it attractive for companies to perform some work on their products in the U.S. rather than doing so off-shore. A FTZ is a restricted access site located within the U.S. Customs and Border Protection territories. On July 14, 1994, the FTZ Board authorized the Board as grantee to establish FTZ 202 thereby requiring the Harbor Department to publish a FTZ tariff, Tariff No. 1. According to FTZ Regulations, Section 400.42 Operation as public utility, “a rate or charge (fee) may be imposed on zone participants to recover costs incurred by or on behalf of the grantee for the performance of the grantee function”. However, grantees should not consider the program as a net revenue source, which would be contrary to the purpose of the FTZ program. Structure of fee schedules are left up to the discretion of the grantee. Therefore, fees are different amongst competing FTZ grantees.

The Harbor Department manages, promotes, and supports over 30 FTZ Operators and Developers in FTZ 202 service area FTZ 202 Operators employed approximately 3,000 individuals during Fiscal Year 2012.

In 2011, FTZ 202 subzone oil refinery operators received approximately \$15 billion worth of oil products and general warehouse operators received approximately \$25 billion worth of foreign merchandise. FTZ 202 served 229 business firms, employing 422 persons at general purpose sites and 2,587 persons at four subzones.

On July 7, 2011, the Board approved an application to the FTZ Board to change FTZ management framework from a Traditional Site Framework (TSF) to an Alternative Site Framework (ASF). On July 9, 2012, the FTZ Board approved the ASF application. The ASF is for grantees that choose to participate for designation and managing general purpose FTZ site in an efficient manner. FTZ general purpose operators will benefit under the ASF’s new streamlined process with quicker approval periods and simplified application requirements.

Need for Replacement – On July 7, 2011, the Board adopted an ASF that facilitates more efficient General Purpose FTZ site approvals. The adoption of the ASF program and new FTZ regulations requires an update to Tariff No. 1. These changes include additional administrative procedures and new Federal terminology. Additionally, a significant change was made to the FTZ Regulations (published February 2012) that requires each Zone Grantee to maintain a Zone Schedule/Tariff that meets the Uniform Treatment provision of the regulations. Due to the significant changes needed to Tariff No. 1 staff recommends, with the support of City Attorney, that the Board approve replacing Tariff No.1 with Tariff No. 2.

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At this time, staff took the opportunity to re-evaluate the costs associated with managing the FTZ program at the Port. Based on the evaluation, increases to the annual FTZ fees were incorporated into the new tariff to meet the Harbor Department’s actual cost to manage the FTZ program. The primary goal is to recover the cost of managing the FTZ program.

In Calendar Year (CY) 2012, the Harbor Department FTZ related revenues totaled \$159,000 of which 87% was derived from annual fees collected from Operators, with the balance coming from other service fees. Harbor Department FTZ estimated expenses for the same period were as follows:

<u>Category Expenses</u>	<u>Annual Expenses</u>
FTZ Consultant	\$ 80,000 (maximum consultant contract)
Port Staff Time Allocation	\$136,706 (based on 1,320 hours)
City Attorney	\$ 16,218 (based on 100 hours)
TOTAL COST	\$ 232,924

By assessing the level of the proposed fee increases, staff considered the Consumer Price Index, as well as FTZ fees charged by other competing FTZs, within the local and Pacific Northwest regions. FTZ fees varied based on each region’s individual cost structure, which differed by location. It should be noted that most revenue is generated from the annual fees. Any of the grantees noted below could be competitors to the Harbor Department. The following is a cost comparison of general purpose and boundary modification annual fees with competing grantees.

	General Purpose Operator Current Annual Fee	Minor Boundary Modification Annual Fee
Port of Los Angeles	\$5,000	\$1,500
Port of Long Beach	\$10,000	\$10,000
Port of Seattle	\$5,000	N/A
Port of Tacoma	\$1,200 - \$5,000	N/A
Victorville, CA	\$5,000	\$1,000 - \$2,500
Riverside, CA	\$7,500	\$2,400 - \$2,500

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Based on annual CPI adjustments, staff recommends increasing FTZ fees as follows:

- General Purpose Operators Annual Fee
 - From \$5,000 to \$7,750 (55% increase)
- Minor Boundary Modification Application Fee
 - From \$1,500 to \$2,500 (66% increase)

Based on actual CY 2012 FTZ activities along with four new General Purpose Operator agreements in CY 2013, staff estimates that annual FTZ revenues will increase from \$159,000 to \$236,000, if this Board action is approved.

Harbor Department notified FTZ 202 Developers and Operators for this potential tariff changes and increasing fees at the FTZ Workshop held on October 26, 2012.

Need for approval – Amending current Tariff No. 1 which would involve changes to all sections of the tariff is viewed as not practical. Staff is recommending replacing Tariff No. 1 with a new tariff, Tariff No. 2. Tariff No. 2 would become effective when approved by the City Council at which time updates to FTZ terms, regulations, specifications for the ASF program and revised fee structure would apply.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Order replacing Harbor Department FTZ Tariff No. 1 with Tariff No. 2. As an administrative activity, the Director of Environmental Management has determined that the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no employment impact.

FINANCIAL IMPACT:

Based on CY 2012 FTZ activities, it is estimated annual FTZ revenues to increase from \$159,000 to \$236,000 annually while annual FTZ total costs are estimated at \$232,924. The net incremental revenue impact from the proposed action is expected to result in a breakeven for the Harbor Department with respect to the FTZ program.

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CITY ATTORNEY:

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

TRANSMITTAL:

1. Order

FIS Approval: XP (initials)
CA Approval: XP (initials)


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APPROVED:


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