



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

Board of Harbor Commissioners

DATE: MAY 19, 2021

FROM: CARGO INDUSTRIAL REAL ESTATE

SUBJECT: RESOLUTION NO. _____ - APPROVE THIRD TEMPORARY ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION EIGHT, SPACE ASSIGNMENTS

SUMMARY:

Staff requests approval of a third Temporary Order for amendments to Port of Los Angeles (Port) Tariff No. 4 (Tariff), Section Eight, which updates the space assignment rates, terms and conditions. The third Temporary Order is required until the Permanent Order is approved by the Los Angeles City Council. Space assignments are granted by the Executive Director for use of covered areas, paved and unpaved land, and water space for non-exclusive use by current or new tenants on a short-term entitlement. The space assignment rates were last updated in October 2005 and are below current market rates. These amendments increase the space assignment rates over the next several years to market level by January 1, 2022, and then match any increases to the Consumer Price Index after 2022 with a minimum two percent increase every January 1.

Other changes include increasing the minimum charge, adding charges for fencing and utility use, and ensuring appropriate environmental review for each assignment. The first increase was effective January 1, 2021, with set increases each January 1 thereafter.

RECOMMENDATION:

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, Section Eight, Space Assignments, as confirmed by the California Association of Port Authorities;
3. Adopt Temporary Order No. _____ to amend Port of Los Angeles Tariff No. 4, Section Eight, Space Assignments;
4. Authorize the Board Secretary to certify the adoption of the Temporary Order by the Board of Harbor Commissioners and cause the same to be published in a daily 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 City Charter Section 653(b); and
5. Adopt Resolution No. _____.

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DISCUSSION:

Background and Context – Tariff No. 4, Section Eight, provides the Executive Director the authority to grant non-exclusive space assignments for use of harbor lands and waters. These entitlements are granted to either current tenants inside or outside of their current leasehold, or to new assignees. They are issued for an initial term of 30 days and can be renewed as circumstances warrant.

Space Assignments are used for the assembly or storage of cargo, the storage of terminal-related equipment or chassis, or other cargo-related purposes. A space assignment cannot interfere with the prompt loading or discharge of vessels and can be revoked at any time by the Executive Director. Rates for space assignments are charged in accordance with the Tariff.

On October 15, 2020, the Board approved the first 90-day Temporary Order for tariff changes effective January 1, 2021. On April 1, 2021, the Board approved a second 90-day Temporary Order since required City approvals were not yet complete. Staff is estimating that City approvals will still not be complete by the end of the second 90-day Temporary Order. Therefore, a third 90-day Temporary Order is required.

Prior to the Board's October action, space assignment rates were last changed in October 2005, and as a result, fell far below market rates for land and warehouse (covered) space. As noted in the October staff report, staff conducted a market study and concluded that the proposed rates, detailed below, are in line with values for comparable properties in the surrounding area under similar real estate entitlements, and as such, are the appropriate rates to implement at this time. Space assignment rates will be evaluated routinely, and on an ongoing basis, through a market study to ensure that the rates continue to track market values for Port property. Any proposed future changes following such review would be presented to the Board in the same manner as this item.

This tariff change brings the space assignment charges to market rate levels over time and then matches with a minimum increase of two percent per year every January 1, rounded to the nearest penny per square foot, starting after calendar year 2022. There will be a minimum annual increase of one cent (\$0.01) for each of the four types of space assignment area. The current updates and proposed schedule for space assignment rates will not be part of any future General Rate Increases.

The proposed rate schedule is as follows:

Space Assignment Rate Schedule
(Rates in Cents per Sq. Ft. per 30-day Period)

Type of Area	Current Rate	Effective Date	
	10/29/2005	1/1/2021	1/1/2022
Covered	36	65	70
Uncovered, paved	17	31	35
Uncovered, unpaved	15	28	32
Water Area	6	11	12

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Further changes and additions to the section include:

- Update the minimum charge for a space assignment from \$497.70 to \$750 per 30-day period. The current minimum rate has also been unchanged since October 2005. The minimum charge will be linked to any CPI changes starting January 1, 2023.
- Add a rate of \$2.10 per linear foot per month for any fenced space assignment area where the fencing is provided by the Port. This is equal to the rate of the Port of Long Beach and will be linked to any CPI changes starting January 1, 2023.
- Adding a rate of \$.03 per square foot per month when lighting is provided by the Port. This is equal to the rate of the Port of Long Beach and will be linked to any CPI changes starting January 1, 2023.
- Updating Note 1 to clarify that payment for all charges are due in advance on the first day of the 30-day period unless the assignee is on the Port's Credit List.
- Part (4) of Section 800 is updated to ensure that property in a space assignment area must be stored, stacked, palletized or high piled in a manner that meets all applicable local, state and federal laws, rules and regulations, including environmental review. In addition, the Executive Director will have the right to access, inspect, examine and to review all property placed on wharf premises under a space assignment.

Need for Approval – Pursuant to the Los Angeles City Charter, the Board has authority to make changes to Tariff No. 4 for a period of 90 days by Temporary Order (Transmittal 1). A companion action to the original Resolution recommended a Permanent Order and Ordinance for approval by the Board and City Council, which are required to make changes to Tariff No. 4 (Transmittal 2) beyond the Temporary Order's 90-day effective period. As City Council has not acted on the permanent order yet, this third 90-day temporary order is required. A previously approved second temporary order expires June 29.

In addition, a docket proposal including this tariff change was submitted to the California Association of Port Authorities (CAPA) Committee on Tariffs and Practices in accordance with the procedures approved by CAPA members. A unanimous vote of the members supporting this tariff change has been confirmed.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a Temporary Order to amend to Port Tariff No. 4, Section Eight, Space Assignments, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (f) of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

Approval of the proposed amendment will increase space assignment rates effective January 1, 2021, on covered, uncovered, and water areas by more than 80 percent relative to the space assignment rates currently charged on those property types. Effective January 1, 2022, rate increases will range from 7.5 percent to 14.5 percent with formulaic, scheduled increases occurring every January 1 thereafter. Approval of the proposed amendment is anticipated to increase City of Los Angeles Harbor Department (Harbor Department) revenues by \$70,000 in calendar year 2021 and \$20,000 in calendar year 2022.

The financial impact of this tariff change is limited due to ongoing efforts to shift tenants from space assignments to less temporary property entitlements, including Revocable Permits. By mid-2021, most space assignments currently in place as of October 2020 are expected to be terminated. In the next several years, as new rates are phased in, new space assignments will more closely approximate market rates for Port property and will provide the Harbor Department with revenues commensurate with Harbor Department policies on the value of land and property.

CITY ATTORNEY:

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

TRANSMITTALS:

1. Temporary Order
2. Tariff No. 4 Section Eight, Item Nos. 800 and 810

FIS Approval: *MB*
CA Approval: *JS*

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