



DATE: SEPTEMBER 16, 2020

FROM: CARGO & INDUSTRIAL REAL ESTATE

**SUBJECT: RESOLUTION NO. _____ – TERMINATION OF TEMPORARY
DISCOUNT ON EMPTY CONTAINERS**

SUMMARY:

Staff requests approval of a resolution which would terminate the temporary discount on empty containers, effective January 1, 2021, which details that TEU charges applicable to inbound or outbound empty containers are discounted when empties exceed 20 percent of the total volume.

This empty container discount is currently included in six container terminal permits: 1) China Shipping (North America) Holding Co., Ltd. (Permit 999); 2) Yang Ming Marine Transport Corporation (Permit 787); 3) Yusen Terminals, LLC (Permit 692); 4) Everport Terminal Services, Inc. (Permit 888); 5) TraPac, Inc. (Permit 881); and 6) APM Terminals Pacific, LLC (Permit 827), (collectively, "Permits").

To effect the termination of the discount, the Board of Harbor Commissioners must adopt a resolution so that it is no longer available under the aforementioned Permits going forward. Termination of the temporary discount on empty containers would result in an average annual savings of approximately \$6.8 million to the City of Los Angeles Harbor Department (Harbor Department).

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is statutorily and generally exempt from the California Environmental Quality Act under Section 15273 of the State CEQA Guidelines and Article II Section 1 of the Los Angeles City CEQA Guidelines;
2. Terminate the Temporary Discount on Empties, previously adopted under Resolution 09-6861, from the following permits: Yang Ming Marine Transport Corporation (Permit 787); Yusen Terminals, LLC. (Permit 692); Everport Terminal Services, Inc. (Permit 888); APM Terminals Pacific, LLC. (Permit 827); terminate the Discount on Empties previously approved for China Shipping (North America) Holding Co., Ltd. under Permit 999 and modified under Resolution 09-6861; terminate the Discount on Empties previously adopted under Resolution 10-6930 from Permit 881 with TraPac, Inc.; and
3. Adopt Resolution No. _____.

SUBJECT: TERMINATION OF TEMPORARY DISCOUNT ON EMPTY CONTAINERS**DISCUSSION:**

Background - In late 2008 and throughout 2009, container terminal tenants experienced an unexpected change in economic conditions where Asia-United States container trade volumes significantly decreased, which as a result, negatively impacted the Harbor Department's volumes and revenues. In early 2009, the Board approved a series of financial incentive programs to 1) assist Harbor Department tenants; 2) enable the Harbor Department to remain competitive in the market place; and 3) maintain long-term market share. Continuing with those efforts, the Board approved the temporary discount on empty containers, which provided a discount on empties exceeding 20 percent of total volume.

The Harbor Department implemented the temporary discount through amendments to the Permits, subject to cancellation at any time by the Board. More specifically, in May 2010, the Board approved the First Amendment to Permit 881 with TraPac, Inc. to implement the discount. Additionally, in June 2010, the Board approved amendments to the following permits to implement the discount: Yang Ming Marine Transport Corporation (Permit 787); Yusen Terminals, LLC. (Permit 692); Everport Terminal Services, Inc. (Permit 888); and APM Terminals Pacific, LLC. (Permit 827). With respect to China Shipping (North America) Holding Co., Ltd., the temporary discount was originally approved under Permit 999 for a period of five years, and in July 2010, the permit was amended to allow for the temporary empty discount described in this report.

Since that time, the landscape of the market has changed and the empty container discount is no longer an effective tool to retain and grow volume at the port complex. The discount was given to Marine Terminal Operators (MTOs) (i.e. permittees) during very difficult economic times in order for them to provide a lower throughput cost on empty containers to shipping lines calling at their terminals. Shipping lines now largely manage to which marine terminal empty containers are directed.

Volume retention and growth in today's operating environment require the Harbor Department to consider new strategies, such as incentivizing shipping lines to retain and bring additional cargo to the port complex. To address this, the Harbor Department developed the Ocean Common Carrier incentive program. Also, other MTO incentives could be developed that are directly under the control of the MTOs, such as a truck turn-time incentive program to improve the truck driver experience, and cargo velocity through marine terminals. Staff will be coming forward in the future with a suggested program for the Board's consideration.

Based on the average annual value of the empty discount from 2010 through 2019, deletion of the discount would result in an average annual savings of approximately \$6.8 million. These savings could be transferred and applied to alternate initiatives, such as those mentioned above, that are more in sync with today's market and environment.

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Provided below is historical data on the financial impact of the empty discount incentive:

- For the period of 2010 through the 2019 compensation year (CY), the empty discount reduced the Harbor Department's revenues by an aggregate \$67.5 million or by \$13.33 per TEU on the 5.1 million TEUs that qualified for the discount.
- Starting in CY 2015, the percent of empty containers handled by the six container terminals increased from an average of 29.4 percent to an average of 32.0 percent over the 2015-2019 CY years.
- The annual value of the discount registered a corresponding increase, registering a high of \$10.6 million for 2018.

Requested Action - As previously noted, the discount on TEU charges implemented by the provision entitled "Temporary Discount on Empty Containers" remains effective "until terminated by Board." To the extent that the permits in which this provision appears were approved by both the Board and by City Council, this language constitutes a delegation by City Council to the Board of the authority to terminate such discount. Pursuant to Section 503(c) of the City's Charter, Boards of the City, including this Board, exercise their powers by order or resolution adopted by a majority of their members. Accordingly, this recommendation seeks the Board's issuance of a resolution to terminate the discount provided by the provision entitled "Temporary Discount on Empty Containers" effective January 1, 2021.

Customer Outreach - Staff communicated to the container terminal tenants that the empty container discount will be terminated subject to Board approval. A separate notice to the tenants will follow formally terminating the program.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the termination of the Temporary Discount on Empty Containers provision from six container terminal Permits, which is a modification of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses and obtaining funds for capital projects and an action where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Therefore, the Director of Environmental Management has determined that the proposed action is statutorily and generally exempt from the requirements of CEQA in accordance with Section 15273 of the State CEQA Guidelines and Article II Section 1 of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed resolution would terminate the temporary discount on empty containers. Termination of this program is anticipated to increase annual cash flows to the Harbor Department by \$6.8 million on average.

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CITY ATTORNEY:


The Office of the City Attorney has reviewed this proposed action and has no legal issues at this time.

FIS Approval: 
CA Approval: 

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