



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

DATE: JULY 28, 2011

FROM: GOODS MOVEMENT DIVISION

**SUBJECT: TEMPORARY ORDER NO. _____ AND PERMANENT ORDER
NO. _____ AMENDING PORT OF LOS ANGELES TARIFF NO. 4,
SECTION 21, ITEM NO. 2105, INFRASTRUCTURE CARGO FEE**

SUMMARY:

On April 15, 2010, the Board of Harbor Commissioners (Board) approved permanent Order No. 10-750 amending the Port of Los Angeles (POLA) Tariff No. 4, Section 21, Item No. 2105, postponing the Infrastructure Cargo Fee (ICF) collection until January 1, 2012, at an amount to be determined by September 30, 2011. The ICF structure entails the use of fees collected on all loaded containers in both the POLA and the Port of Long Beach (POLB) to fund the design and construction phases of all ICF program projects.

New temporary and permanent Orders are being proposed to postpone the commencement of collection of the ICF until January 1, 2014, at an amount to be determined by September 30, 2013. The Harbor Department Fiscal Year (FY) 11-12 budget contains sufficient funds to cover the costs of the four Harbor Department projects that were to be partially funded by the ICF. A total of \$92.086 million in General Revenue funds will be needed in FY 11-16 to offset this ICF collection postponement. The POLB Board is expected to approve a similar measure on August 1 or August 8, 2011.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the amendment to Item Nos. 2100 and 2105 in the POLA Tariff No. 4, Section 21, (Transmittal 1), to (i) amend the date of ICF collection to commence on January 1, 2014, and (ii) revise the amount of the ICF to be unspecified at this time, but state that such amount shall be determined by this Board by September 30, 2013, in a future tariff amendment. This amendment shall be subject to California Association of Port Authorities (CAPA) review and approval, and authorize the Executive Director to present the tariff amendment to CAPA to secure CAPA approval or proceed to take independent action in accordance with CAPA procedure;
2. Adopt Temporary Order No. _____ (Transmittal 2) and Permanent Order No. _____ (Transmittal 3) to amend Item No. 2105 in POLA Tariff No. 4, Section 21, Item No. 2105, Infrastructure Cargo Fee;

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3. Authorize the Board Secretary to certify to the adoption of the Temporary 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);
4. Direct the Board Secretary to transmit to the City Council for approval the Permanent Order and proposed Ordinance approving and authorizing the amendment to Tariff No. 4 pursuant to City Charter 653(a);
5. Authorize the Board Secretary to execute the Permanent Board Order and Ordinance amending Tariff No. 4, and upon 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 POLA website as regulated by the Federal Maritime Commission; and
6. Direct staff to revise the "Computation Methodology" referred to in the Tariff, recompute the ICF, and present an amendment to the Tariff No. 4, Item 2105 with a new proposed specific amount for the ICF for approval by this Board by September 30, 2013.

DISCUSSION:

Background/Previous Approvals: On January 14, 2008, the Board approved Order No. 6950, which established a new POLA Tariff No. 4, Section 21 for the ICF to commence January 1, 2009, in the amount of \$15/loaded twenty-foot equivalent unit (TEU), to partially fund the local share of following projects:

- I-110 Connectors Program
- Ports Rail System (includes West Basin (Berth 200) Railyard & Cerritos Channel rail bridge
- South Wilmington Grade Separation
- SR-47 Expressway
- Gerald Desmond Bridge Replacement

On December 18, 2008, the Board approved Order No. 6976, which amended the ICF amount to \$6/TEU, with collection to commence on July 1, 2009. On April 16, 2009, the Board approved a Permanent Order and a Temporary Order amending POLA Tariff No. 4, Section 21, Item No. 2105, to amend the date of ICF collection to commence on July 1, 2010, at an amount to be determined by March 31, 2010, at the latest. In April 15, 2010, the Board approved permanent Order No. 10-750 amending the POLA Tariff No. 4, Section 21, Item No. 2105, postponing the ICF collection until January 1, 2012, at an amount to be determined by September 30, 2011.

Recommended Approval: To provide further financial relief for shippers and in recognition of changes in project schedules and scopes, staff is recommending the approval of a new temporary Order and permanent Order postponing the commencement of the ICF collection until January 1, 2014 at the earliest. A revised "Computation Methodology" and ICF amount

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will be presented to this Board for approval of a future tariff amendment by September 30, 2013. The POLB Board is expected to approve on similar changes August 1, 2011.

The ICF structure entails the use of fees collected from both the POLA and the POLB to fund the design and construction phases of all ICF program projects. At the present time, the Harbor Department and POLB do not need to implement the ICF to complete their respective projects. At a meeting held on August 21, 2009, the ACTA Board elected to defer funding the final design phase of one of ACTA's two ICF projects, the SR-47 Expressway. For its other ICF funded project, instead of constructing a new rail bridge across the Cerritos Channel at this time, the Harbor Department will be considering seismically retrofitting the existing Badger Avenue Bridge.

ECONOMIC BENEFITS:

This Board action will have no employment impact for our five-county region. Postponing the ICF implementation to January 1, 2014, will not delay the project implementation, but will merely defer the ICF collection. Deferral of ICF collection may have a beneficial impact on our customers by them not paying additional fees during the current economic recession.

ENVIRONMENTAL ASSESSMENT:

The proposed action is an Order amending the Port of Los Angeles Tariff No. 4, Section 21, Item No. 2105. 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:

Each of the projects is currently programmed in the Harbor Department's Capital Improvement Program (CIP) with the funding expected to come from internal Harbor Department resources. The Harbor Department FY11-12 budget contains sufficient funds to cover the costs of the four projects that were to be partially funded with the ICF. A total of \$92.086 million in General Revenue funds will be needed in FY11-16 to offset this ICF collection postponement. Not receiving any funding from the ICF while still moving forward with the listed projects will require the Harbor Department to borrow more than originally anticipated for FY11-12 (for not only these, but other capital projects) or use more of its cash generated from operations. The Harbor Department will also continue to obtain more grant funds. The magnitude of the additional borrowing or the amount of cash used will vary depending on the amount of operating revenues generated and when and whether the ICF might be implemented.

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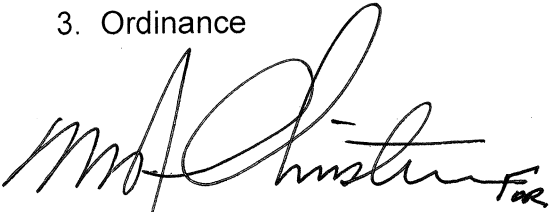
CITY ATTORNEY:

The Office of the City Attorney has prepared and approved as to form and legality, the Tariff, Orders, and Ordinance.

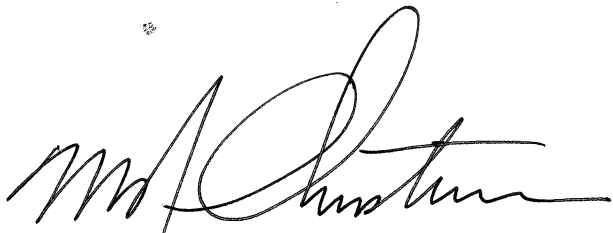
FIS Approval: PC (initials)
CA Approval: epc (initials)

TRANSMITTALS:

- 1. Temporary Order/Tariff Section 21
- 2. Permanent Order
- 3. Ordinance



KERRY CARTWRIGHT, P.E.
Director of Goods Movement



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APPROVED:



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