ORDER NO. _____

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

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

Section 1. 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 "A," attached hereto and incorporated herein by reference.

Section 2. The Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

Section 3. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners and shall cause the same to be published once in a daily newspaper printed and published in the City of Los Angeles as well as posted electronically on the Port of Los Angeles website, to take effect prior to adoption by Ordinance for a period not to exceed 90 days pursuant to Charter Section 653(b), commencing effective _____, 2021.

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 _____.

_____.
AMBER M. KLESGES
Board Secretary

APPROVED AS TO FORM AND LEGALITY

Aug 19, 2021
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By _____
JOHN T. DRISCOLL, Deputy City Attorney

JTD
Attachment

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SECTION TWO – Continued
GENERAL RULES AND REGULATIONS -- Continued

Item No.

FURNISHING REQUIRED DOCUMENTS

(a) The owner, agent, master, or other person in charge of a vessel or cargo, shall have 15 calendar days, from the date of departure of the vessel from any wharf, to deliver to the Executive Director a full and correct statement, signed and certified to by him, on forms approved by the Board, of all merchandise of every kind loaded or discharged at such wharf, specifying the type and quantity of such merchandise together with complete and verifiable copies of the vessel's manifest and/or Bills of Lading.

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Complete and certified copies of inbound and/or outbound container reports, on forms approved by the Board, will also be delivered within the same period.

* In lieu of furnishing the above documents, cargo information and container reports may be transmitted electronically directly to the Harbor Department through preapproved contractual Electronic Data Interchange (EDI) procedures or through other procedures and formats approved by the Executive Director.

(b) Neglect or refusal to make or deliver the documentation within the time period as provided for in paragraph (a) of this Item will result in the assessment of a penalty charge of 1/30 of two percent per day of the total wharfage charges due subject to a minimum penalty charge of two percent (2%) of total wharfage charges.

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SECTION TWENTY-THREE
INCENTIVES – GENERAL RULES AND REGULATIONS

Item No.

DEFINITIONS OCEAN COMMON CARRIER INCENTIVE PROGRAM

For purposes of Items 2320 and 2325 the following definitions shall apply:

"BASELINE TEU VOLUME" means TEU Volume delivered by an Ocean Common Carrier through the Port of Los Angeles during the Fiscal Year that immediately precedes the current Fiscal Year.

"CONTAINER REPORT" means a report produced by the Terminal Operator upon completion of the loading and discharge operations of a vessel showing the total number of containers loaded and or discharged of such vessel.

"FISCAL YEAR" or "FY" means a 12 month period commencing on July 1 and ending the subsequent year on June 30.

"INCENTIVE PERIOD" shall be the Fiscal Year period that immediately follows the Fiscal Year period during which the Baseline TEU Volume was established. 2320

"INCENTIVE PERIOD TEU VOLUME PERCENTAGE GROWTH" means the percentage growth in TEU Volume delivered by the individual Ocean Common Carrier through the Port of Los Angeles during the relevant Incentive Period over the Baseline TEU Volume, after reducing this percentage growth by the Transpacific Market Percentage Growth. The TEU Volume increase, if any, reflected by this comparison to the Baseline TEU Volume shall be the "ADJUSTED INCENTIVE PERIOD TEU VOLUME"

"OCEAN COMMON CARRIER" means an individual vessel-operating common carrier as defined in the Shipping Act of 1984, whose vessels call at Port of Los Angeles.

"QUALIFYING YEAR" means the Fiscal Year immediately prior to the Baseline TEU Volume period.

"TERMINAL OPERATOR" means the entity with contractual authority from the Port of Los Angeles to operate a Terminal, to include an operating entity authorized by the premises permit holder to operate a Terminal on its behalf.

"TEU" means the unit of measurement that is derived by converting the actual length of a cargo container into twenty-foot equivalent units.

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SECTION TWENTY-THREE INCENTIVES – GENERAL RULES AND REGULATIONS	Item No.
DEFINITIONS OCEAN COMMON CARRIER INCENTIVE PROGRAM -- Continued "TEU VOLUME" means loaded and empty container volume combined, delivered to the Port of Los Angeles by an Ocean Common Carrier. "TRANSPACIFIC MARKET PERCENTAGE GROWTH" means the reported import percentage growth figure recorded during the Incentive Period using Trans Pacific market United States West, Gulf and East Coast data obtained through the Port Import Export Reporting System (PIERS) or similar publicly verifiable source to be determined by the Executive Director.	+ 2320 (Cont.)
OCEAN COMMON CARRIER INCENTIVE PROGRAM AND ELIGIBILITY REQUIREMENTS (a) An individual Ocean Common Carrier is eligible to receive $10 per TEU payment on the Adjusted Incentive Period TEU Volume, effective September 1, 2018. In the event the Transpacific Market Percentage Growth during the Incentive Period declines below zero percent (0%), an Individual Ocean Common Carrier will still qualify to receive payment under this Ocean Common Carrier Incentive Program, but only for the TEU Volume above the Baseline TEU Volume. (b) The maximum payment an individual Ocean Common Carrier can earn from this incentive program is Two Million Dollars ($2,000,000.00) per Incentive Period. Any shortfall amount below the Two Million Dollars ($2,000,000.00) maximum payment per Incentive Period will not be carried over. TEU Volumes of individual Ocean Common Carriers that merged their container shipping operations into a newly formed or existing Ocean Common Carrier shall be combined for the purposes of determining eligibility under this program. Each TEU shall only be counted and claimed once by one individual Ocean Common Carrier and exclude TEU Volume carried aboard its vessels for other individual Ocean Common Carriers. The determination as to which individual Ocean Common Carrier is responsible for delivering each TEU under this program shall be resolved by the Executive Director at his or her sole discretion.	+ 2325

SECTION TWENTY-THREE
INCENTIVES – GENERAL RULES AND REGULATIONS

Item No.

OCEAN COMMON CARRIER INCENTIVE PROGRAM AND ELIGIBILITY REQUIREMENTS -- Continued

During the Qualifying Year, an individual Ocean Common Carrier shall have delivered TEU Volumes equal to or lower than the Baseline TEU Volumes before qualifying for a financial incentive under this Ocean Common Carrier Incentive Program. This Qualifying Year TEU Volume requirement shall not apply to the first Incentive Period (ending June 30, 2019) of this program. Effective April 1, 2021 the Qualifying Year TEU Volume requirement shall no longer apply to TEU Volume on or after April 1, 2021 but will be applied to TEU Volume delivered prior to that date.

(c) In order for an individual Ocean Common Carrier to be entitled to receive payments under this program, the Ocean Common Carrier or their agent shall be required to transmit electronically to the Harbor Department the manifest and container information in accordance with the schedule provided in this Item by September 30, 2018. Reasonable technical delays in providing this electronic information by this date shall be excused upon written request and a showing of good cause, in a manner and for a period of time determined in the sole and absolute discretion of the Executive Director. This electronic transmission shall be through preapproved contractual EDI procedures or through other procedures and formats approved by the Executive Director.

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(d) The Port of Los Angeles shall, within (30) days of receipt of the Incentive Period TEU Volumes delivered by an individual Ocean Common Carrier to the Port of Los Angeles, determine, in the sole and absolute discretion of the Executive Director, the actual monetary payment each participating Ocean Common Carrier is entitled to receive by reconciling the following:

1. Ocean Common Carrier data according to Item No. 255
2. The Terminal Operator supplied Container Report

Individual Ocean Common Carriers potentially entitled to payment under this incentive program shall submit a written request for payment, directed to the Executive Director no later than August 31st immediately following the Incentive Period. Payments made under this program, if any, shall be paid in one-time, lump-sum payments.

To be paid an incentive, all Ocean Common Carriers must have filed with the Port of Los Angeles a Los Angeles Business Tax Registration Certificate and federal tax form W-9 or form W-8BEN.

SECTION TWENTY-THREE
INCENTIVES – GENERAL RULES AND REGULATIONS

Item No.

OCEAN COMMON CARRIER INCENTIVE PROGRAM AND ELIGIBILITY REQUIREMENTS -- Continued

(e) The Ocean Common Carrier Incentive Program under Item No. 2325 shall remain valid for a minimum 303-day period commencing on September 1, 2018, and continue until terminated at the discretion of the City of Los Angeles Board of Harbor Commissioners by order of the Board.

If this Ocean Common Carrier Incentive Program becomes effective or is terminated during a Fiscal Year, each eligible Ocean Common Carrier shall be entitled to an incentive payment on a pro-rata basis on that Adjusted Incentive Period TEU Volume. In determining pro-rata incentive payment eligibility, the Incentive Period TEU Volume Percentage Growth and the Baseline TEU Volume will be adjusted in proportion to the same number of calendar days during the Incentive Period in which the Ocean Common Carrier Incentive Program was effective.

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Digital Data Portal Electronic Transmission Schedule

Information	Frequency	Potential Sources
(Imports)		Sources include but are not limited to the following:
Import Manifest Documentation (not including commodity or financial information)	Within 24 hours of origin departure; with all amendments or updates as generated	EDI 309 – Customs Manifest EDI 310 – Freight Receipt and Invoice
Container stowage on incoming vessel	Within 24 hours of origin departure; with all amendments or updates as generated	BAPLIE (Origin and Final) EDI 324 – Vessel Stow Plan
Marine terminal destination information	Within 24 hours of origin departure; with all amendments or updates as generated	IFTSAI

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SECTION TWENTY-THREE
INCENTIVES – GENERAL RULES AND REGULATIONS

Item No.

OCEAN COMMON CARRIER INCENTIVE PROGRAM AND ELIGIBILITY REQUIREMENTS -- Continued

Digital Data Portal Electronic Transmission Schedule – (Continued)

Information	Frequency	Potential Sources
Container modality information (Truck or specific Railroad SCAC)	Within 24 hours of origin departure; with all amendments or updates as generated	EDI 404 – Rail Carrier Shipment Information
Container final destination information	Within 24 hours of origin departure; with all amendments or updates as generated	Bill of Lading
Container movement status updates	Within 30 minutes of movement event	EDI 315 – Status Details
(Exports)		
Export booking information (not including commodity or financial information)	Within 24 hours after booking accepted; with all amendments or updates as generated	EDI 301 – Confirmation EDI 303 – Booking Cancellation
Export marine terminal information	Within 24 hours of origin departure; with all amendments or updates as generated	IFTSAI
(Other)		
Empty containers returned by marine terminal or container yard	Daily; with all amendments or updates as generated	Shipping Line Equipment Management System

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