



DATE: DECEMBER 5, 2019

FROM: CARGO MARKETING

SUBJECT: RESOLUTION NO. _____ - APPROVE PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION TWENTY THREE, ITEM NO. 2325 "OCEAN COMMON CARRIER INCENTIVE PROGRAM AND ELIGIBILITY REQUIREMENTS", PROVIDING AN ADDITIONAL FINANCIAL INCENTIVE TO OCEAN COMMON CARRIERS

SUMMARY:

Staff requests approval of an amendment to Port of Los Angeles (Port) Tariff No. 4 (Tariff) to provide an additional financial incentive to Ocean Common Carriers (OCCs) under the Ocean Common Carrier Incentive Program (OCC Incentive Program) currently in effect. The OCC Incentive Program currently incents eligible OCCs \$10.00 per incremental loaded and empty Twenty-foot Equivalent Units (TEU) they delivered to the Port over the Trans Pacific Trade Volume Percentage Growth. Under the proposed amendment, an individual OCC is eligible to receive an additional \$5 per TEU payment on the loaded container volume portion of its adjusted Incentive Period TEU Volume which is greater than the loaded container volume portion of its Baseline TEU Volume, for loaded containers delivered to the Port on or after January 1, 2020. The maximum payment an individual OCC can earn from the program would increase to \$3,000,000 per Incentive Period. Payouts to OCCs earned under the terms of the OCC Incentive Program would be the financial responsibility of the Harbor Department. If all requirements are met, under the proposed amendment, the Port could potentially pay a total of \$7,800,000 to qualified OCCs. All other OCC Incentive Program requirements remain in effect.

RECOMMENDATIONS:

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 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 the amendment to Port of Los Angeles Tariff No. 4, revising Section Twenty-Three, "Incentives - General Rules and Regulations", Item No. 2325 "Ocean Common Carrier Incentive Program and Eligibility Requirements", subject to the California Association of Port Authorities' review and approval, and authorize the Executive Director to work with the California Association of Port Authorities to secure this

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approval or proceed to take independent action in accordance with the California Association of Port Authorities' procedure;

3. Adopt Permanent Order No. _____ to amend Port of Los Angeles Tariff No. 4, Section Twenty-Three, "Incentives - General Rules and Regulations", Item No. 2325 "Ocean Common Carrier Incentive Program and Eligibility Requirements";
4. Direct the Board Secretary to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the Amendment to Port of Los Angeles Tariff No. 4 pursuant to City Charter 653(a);
5. 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 in a daily newspaper printed and published in the City of Los Angeles;
6. After the effective date of the Ordinance, transmit the Permanent Order and Ordinance to the Executive Director or his nominee for implementation and posting to the Port of Los Angeles website as regulated by the Federal Maritime Commission; and
7. Adopt Resolution No. _____.

DISCUSSION:

Background and Context – The Port's Strategic Plan recognizes its position as the number one container port in the nation by volume. In order to maintain its competitive market position, the Port has implemented various incentive programs over the years to aid in the success of the Port's marine terminals and OCCs.

On August 23, 2018, the Board approved the OCC Incentive Program providing eligible OCCs a financial incentive on incremental loaded and empty TEUs and allowing the Port to gain market share. During the initial incentive period of the OCC Incentive Program, the Port's cumulative TEU throughput increased 6.61 percent, or 497,719 TEUs, over the corresponding baseline period. Thirteen carriers moved an additional 994,297 TEUs while ten handled 496,578 fewer TEUs with the resulting net at 497,719. The additional 994,297 TEUs handled by the thirteen carriers was reduced by the 5.73 percent transpacific import TEU growth to 785,738 incentivized TEUs handled by eleven carriers; the TP growth criterion eliminated two of the thirteen from the incentive. Rounding out the incentive year, a total of 785,738 TEUs qualified for the incentive at \$10.00 for a total of \$6.2 million. To date, the Port has paid \$5 million to the eligible OCCs. Payments for two OCCs are currently in process.

To further increase the success of this program, staff proposes amending the Tariff to include an additional financial incentive to the current OCC Incentive Program. If approved, the amendment would allow eligible OCCs to receive an additional \$5 per TEU payment on the loaded container volume portion of its adjusted Incentive Period TEU

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Volume which is greater than the loaded container volume portion of its Baseline TEU Volume, for loaded containers delivered to the Port on or after January 1, 2020.

The table below provides a hypothetical example showing how payouts would be calculated under the proposed amendment to the OCC Incentive Program:

PERIOD	LOADED TEU	EMPTY TEU	INCENTIVE AMOUNT (Load and Empty)	TOTAL
July 1 – Dec 31, 2019	70,000	30,000	\$10.00	\$1,000,000.00
Jan 1 - June 30, 2020	70,000	30,000	\$10.00 + \$5.00 (loads)	\$1,350,000.00
Grand Total				\$2,350,000.00

The maximum payment an individual OCC can receive from the incentive program would increase to \$3,000,000 per Incentive Period. The determination as to which individual OCC is responsible for delivering each TEU, as well as the final amount and composition of the individual OCC's adjusted Incentive Period TEU Volume, shall be resolved by the Port's Executive Director.

All other terms and conditions of the current OCC Incentive Program would remain in effect.

Need for Approval – A separate action recommends Board adoption of a Temporary Order within its Los Angeles City Charter authority to approve changes to Tariff No. 4, to be effective for a period not to exceed 90 days. This action for Board and City Council adoption of a Permanent Order (Transmittal 1) and Ordinance (Transmittal 2) are required under the Charter to make changes to Tariff No. 4 (Transmittal 3) beyond the Temporary Order's 90-day effective period.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Permanent Order and Ordinance to amend the Port of Los Angeles Tariff No. 4 OCC Incentive Program to add an additional incent amount to incentivize growth in container volume, which is an administrative activity. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from CEQA in accordance with Article II Section 2 (f) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

The proposed amendment to the OCC Incentive Program is expected to incrementally benefit operating revenues if the payouts occur according to the parameters of the OCC Incentive Program requirements and assuming that incremental incentivized TEUs are invoiced \$15.00 per loaded TEUs and \$10.00 per empty TEU, effective January 1, 2020. The proposed amendment will increase the maximum payment an individual OCC can receive from the incentive program by \$1,000,000 (from \$2,000,000 to \$3,000,000) per Incentive Period, or a pro-rated amount in the event the program is terminated during a FY. In the event that the Transpacific Market Percentage Growth during the Incentive

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Period declines below 0 percent, an individual OCC could still qualify to receive payment under the OCC Incentive Program so long as all conditions of the OCC Incentive Program are met.

Additionally, for loaded containers delivered to the Port on or after January 1, 2020, the proposed amendment would allow eligible OCCs to receive an additional \$5 per TEU payment on the loaded container volume portion of its adjusted Incentive Period TEU Volume that is greater than the loaded container volume portion of its Baseline TEU Volume (the proposed amendment will increase the payout on this portion of containers from \$10 to \$15).

Incentive amounts for an OCC's eligible TEU volume will be directly paid as a one-time cash payment per year so long as the proposed OCC Incentive Program remains in effect.

If the proposed amendment is approved by the Board, additional funds for the OCC Incentive Program will be requested to be included in the FY 2021 budget as part of the annual budget adoption process, subject to Board approval.

CITY ATTORNEY

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

TRANSMITTALS:


- 1. Permanent Order
- 2. Ordinance
- 3. Tariff No. 4 Section Twenty-Three, Item No. 2325

FIS Approval: 
 CA Approval: 


 ERIC CARIS
 Director of Cargo Marketing


 MICHAEL DIBERNARDO
 Deputy Executive Director

APPROVED:


 EUGENE D. SEROKA
 Executive Director