

SIXTH AMENDMENT TO
PERMIT NO. 733
EAGLE MARINE SERVICES, LTD.

Permit No. 733 granted to EAGLE MARINE SERVICES, LTD. is hereby amended a sixth time as follows:

Notwithstanding the provisions of Section 2(c), Section 4(a) and Exhibit "B" of the Agreement, commencing on July 1, 2011 and terminating on June 30, 2012, Tenant's obligation to pay City wharfage on "Transferred Merchandise," meaning merchandise received at a municipal wharf or wharf premises by land transportation and subsequently removed from municipal wharf or municipal wharf premises by land transportation, shall be calculated with reference to Item 520 and Item 550-033, adopted by Board on June 16, 2011 pursuant to Order No. 11-7082, and attached hereto as Exhibit "A." Following June 30, 2012, should City amend Item 520 and/or Item 550-033 through action by both Board and Council, Executive Director may, in his or her sole and absolute discretion, and upon written notice to Tenant, apply such amendments to the Agreement, such that wharfage on "Transferred Merchandise" on and following the date designated by Executive Director in his or her written notice shall be calculated with reference to such subsequent amendments of Item 520 and/or Item 550-033.

All other terms and conditions of the Agreement, as previously amended, shall remain unchanged and unaffected by this Sixth Amendment.

CITY OF LOS ANGELES, by its
Board of Harbor Commissioners

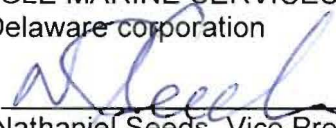
Dated: _____

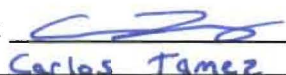
By _____
Executive Director

Attest _____
Board Secretary

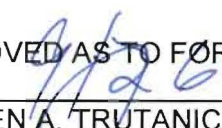
EAGLE MARINE SERVICES, LTD.,
a Delaware corporation

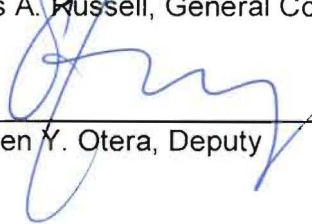
Dated: _____

By 
Nathaniel Seeds, Vice President
(Print/Type Name and Title)

Attest 
Carlos Tamez
(Print/Type Name and Title)

APPROVED AS TO FORM AND LEGALITY

, 2011
CARMEN A. TRUTANICH, City Attorney
Thomas A. Russell, General Counsel

By 
Steven Y. Otera, Deputy

SYO/cp
8/5/11

TRANSMITTAL 1

ORDER NO. 11 - 7082

A permanent Order of the Board of Harbor Commissioners of the City of Los Angeles amending the 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. The 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.

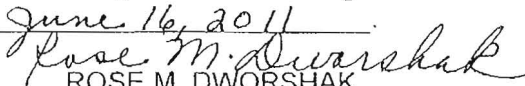
Section 2. The Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II, Section I of the Los Angeles City CEQA guidelines.

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, to take effect prior to adoption by Ordinance for a period not to exceed 90 days pursuant to Charter Section 653(b).

Section 4. The Board Secretary shall transmit to the City Council for approval the Order and Ordinance approving the amendment to Tariff No. 4 pursuant to City Charter Section 653(a).

Section 5. The Board Secretary shall execute the proposed Board Order and Ordinance amending Tariff No. 4, and upon its 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 Port's website as regulated by the Federal Maritime Commission.

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 June 16, 2011.


ROSE M. DWORSHAK
Acting Board Secretary

APPROVED AS TO FORM

June 16, 2011
CARMEN A. TRUTANICH, City Attorney

By 
JANET KARKANEN, Deputy

EXHIBIT A

PORT OF LOS ANGELES – TARIFF NO. 4		Fourth Revised Page..... 48 Cancels Third Revised Page..... 48
SECTION FIVE – Continued WHARFAGE -- Continued		Item No.
TRANSFERRED MERCHANDISE		
<p>(a) Transferred merchandise is merchandise received at municipal wharf or wharf premise by land transportation and subsequently removed from municipal wharf or wharf premise by land transportation.</p> <p>(b) Transferred merchandise shall be assessed wharfage on the same basis as merchandise moving by vessel subject to the two exceptions noted below.</p> <p>Exception 1: In the event merchandise is transferred from the premises of one municipal wharf to another for delivery to either a land vehicle (including rail) or vessel, a single wharfage charge only will be assessed.</p> <p>Exception 2: Some terminal operators serve vessels which are members of an alliance whose vessels call at several ports. As used in this Tariff item, the term "alliance" means a formal contract among several carriers to share terminal and vessel space. Such terminal operators may handle transferred merchandise from alliance members who dray such merchandise from other ports.</p> <p>Terminal operators falling under either of the two foregoing exceptions shall have the option of paying charges to the City on such transferred merchandise handled at the Port of Los Angeles in one of the two following ways:</p> <p>1. The terminal operator may pay the City 100% of the applicable wharfage rate for Cargo N.O.S. per kiloton or cubic meter (see Item 550-001) and such transferred merchandise charge shall not count toward the terminal operator's minimum annual guarantee (MAG) or be revenue shared or count toward "efficiency criteria" except to the extent terminal operator's agreement with the City so allows. The term "efficiency criteria" refers to agreement revenue sharing provisions based on revenue tons per acre or the number of twenty-foot equivalent units (TEU) or containers handled.</p> <p>* 2. Alternatively, merchandise handled by the terminal operator commencing July 1, 2011, and ending on June 30, 2012, and subject to the conditions below, if the terminal operator has submitted a written request to the Executive Director and the Executive Director grants such request in writing, the terminal operator may be exempted from paying wharfage on such merchandise (see Item 550-033) per container, loaded or empty, and such merchandise shall not count toward the terminal operator's MAG, or be revenue shared, or count toward the terminal operator's "efficiency criteria" except to the extent the terminal operator's agreement with the City so allows. At the sole discretion, the Executive Director may revoke the permission for the terminal operator to handle transferred merchandise at a flat fee upon providing the terminal operator 72 hours' notice.</p>		[C] 520
See Item 10 for explanation of abbreviations and symbols.		
Correction No.	Order No. Adopted Ordinance No. Adopted	EFFECTIVE:

Exhibit "A"

PORT OF LOS ANGELES – TARIFF NO. 4		Tenth Revised Page 52 Cancels Ninth Revised Page 52
SECTION FIVE – Continued WHARFAGE – Continued		Item No.
WHARFAGE RATES – Continued	Rates in Cents Per KT or M-3 Unless Otherwise Indicated Below (See Item 510)	550-
<p>Rates apply on all trades (See Item 100 [o], [p], and [q]) except Hawaii or as noted in individual items.</p> <p>* Transferred Merchandise (Subject to Notes 1 through 8)</p> <p>Note 1: Subject to provisions of Tariff No. 4, Item 520.</p> <p>Note 2: No wharfage shall be assessed under this item commencing July 1, 2011, and ending on June 30, 2012.</p> <p>Note 3: Terminal operator must provide a written request to use this item and the Executive Director will grant written approval.</p> <p>Note 4: The Executive Director can revoke permission for the terminal operator to handle transferred merchandise on 72 hours' notice to the terminal operator.</p> <p>Note 5: Container movements from the Port of Long Beach are restricted to alliance partners' merchandise only, covering a volume not to exceed 500 containers per alliance, per seven-day period.</p> <p>Note 6: Each terminal operator shall provide on a monthly basis, commencing July 1, 2011, to the Port of Los Angeles alliance partner container numbers of units that were discharged from a vessel calling at the Port of Long Beach and transported by rail from a wharf premises in the Port of Los Angeles.</p> <p>Note 7: Each terminal operator shall provide on a monthly basis, commencing July 1, 2011, to the Port of Los Angeles alliance partner container numbers monthly of units that were discharged from a vessel calling at the Port of Los Angeles and transported by rail from a wharf premises in the Port of Long Beach.</p> <p>Note 8: The Port reserves the right to audit the data provided in Note 6 and Note 7 above and may amend its' determination at the exclusive discretion of the Executive Director.</p> <p>The factors the Executive Director may consider in deciding whether to grant a flat fee under Item 520, Exception 2, include, but are not limited to:</p> <ol style="list-style-type: none"> (1) Whether the transferred merchandise has been generated from a carrier which is an alliance member of the terminal operator's customers; (2) Whether and how the handling of the transferred merchandise in the Port of Los Angeles will impact other terminals in the Port; (3) Whether allowing such handling will assist rail carriers in minimizing traffic along intermodal routes; (4) Whether the terminal operator making the request is current in all its obligations to the Port; and (5) Such other factors as may be presented to the Executive Director based on the unique facts of each case. The Executive Director may further constrict the hours of operation noted above upon first providing the terminal operator 24 hours' notice. 		
	Per Container \$0.00	[C][R] 033
See Item 10 for explanation of abbreviations and symbols.		
Correction No.	Order No. Adopted Ordinance No. Adopted	EFFECTIVE: