

ORDINANCE NO. _____

An ordinance approving Order No. 13-_____ of the Board of Harbor Commissioners of the City of Los Angeles, amending the Port of Los Angeles Tariff No. 4.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. That Order No. 13- _____, passed and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the ____ day of September, 2013, amending Port of Los Angeles Tariff No. 4, is hereby ratified, confirmed, and approved. This Order is in words and figures as follows:

“ORDER NO. 13-_____

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

FINDINGS

BACKGROUND

1. On July 12, 1989, the Board of Harbor Commissioners of the City of Los Angeles adopted Order No. 5837, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 165789, adopted on April 10, 1990. Said Order and Ordinance designated Port of Los Angeles Tariff No. 4, which sets forth rates at which, and terms under which, the Port of Los Angeles, California is willing to provide marine terminal services. Tariff No. 4 has been amended from time to time since 1989. The current version of Tariff No. 4 is made available to the public on the Port of Los Angeles website at www.portoflosangeles.org.
2. On January 14, 2008, the Board adopted Order No. 6950, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 179982, adopted on June 17, 2008. Said Order and Ordinance amended Tariff No. 4 by adding Section 21 Infrastructure Fee, establishing an infrastructure cargo fee.
3. On March 20, 2008, the Board adopted Order No. 6956, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 179981, adopted on June 17, 2008. Said Order and Ordinance amended Tariff No. 4 by, among other things, modifying Section 21 Infrastructure Fee, to clarify

and harmonize the Infrastructure Fee and the Clean Truck Fee under Section 20 of the Tariff.

4. On December 18, 2008, April 16, 2009, April 15, 2010 and August 4, 2011, the Board adopted Order Nos. 08-6976, 09,-6996, 10-7050 and 11-7086, all of which Orders amended Port of Los Angeles Tariff No. 4 by revising Section 21, Item 2105, to amend and defer the dates of commencement of collection of the Infrastructure Fee and to provide for the methodology and future calculation dates for computation of the Infrastructure Fee. Said Orders were approved by the City Council of the City of Los Angeles by Ordinance No. No.180920 and Ordinance No.180921 both adopted on October 14, 2009; Ordinance No. 181200, adopted on June 22, 2010; and Ordinance No. 181922, adopted on October 26, 2011. With these various deferrals of commencement date for collection, the Infrastructure Fee has never been assessed or collected.
5. The Board now wishes to further amend Port of Los Angeles Tariff No. 4 to repeal and cancel Section 21, Infrastructure Fee, in its entirety, as many of the projects are now, or will be, under construction by January 2014. From recent transportation studies, it has been determined that some of the projects will not be needed for five to ten years.

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

Section 1. The Board of Harbor Commissioners of the City of Los Angeles hereby adopts the findings set forth above.

Section 2. 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. This amendment shall be subject to California Association of Port Authorities (CAPA) review and approval, and the Executive Director is authorized to present the tariff amendment to CAPA to secure CAPA approval or proceed to take independent action in accordance with CAPA procedure.

Section 3. The Director of Environmental Management has determined that these amendments to the Tariff are exempt from the California Environmental Quality Act (CEQA) as provided by the following sections of the State of California CEQA Guidelines in California Public Resources Code 21084, Title 14 of the California Code of Regulations, Section 15273 (rates, tolls, fares, and charges), and Section 15061(b) (3) (no possibility of significant adverse effect on the environment). Infrastructure Projects proposed to be funded by the Infrastructure Fee shall only qualify for funding by the Infrastructure Fee after CEQA assessment and project approval by the applicable lead agency.

Section 4. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners and shall cause the same to be presented to the Mayor and the City Council for consideration of its adoption by Ordinance.

Section 5. Pursuant to Charter Section 653(a), this amendment to the Tariff shall become effective when this Order is approved by the City Council by Ordinance; provided, however, pursuant to Charter Section 653(b), this Order shall be effective prior to adoption by Ordinance for a period not to exceed 90 days from the date of its adoption.

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

JULIE HUERTA
Board Secretary”

Section 2. Any person, firm or corporation who violates or knowingly aids or abets a violation of any of the provisions of this Order respecting the rules, regulations, rates or charges shall be deemed guilty of a misdemeanor, and, upon conviction shall be punishable by a fine in a sum not exceeding \$1,000.00, or by imprisonment in the County jail for not more than six months, or by both fine and imprisonment.

Section 3. That, pursuant to the provisions of Section 653 (b) of the City Charter, the Board of Harbor Commissioners shall have the power to suspend, modify, or amend temporarily any of the rules or regulations, or any of the rates, tolls, or charges prescribed by this Order of the Board of Harbor Commissioners for periods not exceeding 90 days, and shall have power to place in effect for a like period of time any temporary rule or regulation, or rate, toll or charge for the Harbor District.

Section 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, Interim City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By _____
JOY M. CROSE
Assistant General Counsel

Date _____

File No. _____

EXHIBIT A

PORT OF LOS ANGELES – TARIFF NO. 4

Third Revised Page 196
 Cancels
 Second Revised Page 196
 and Circular No.

SECTION TWENTY-ONE INFRASTRUCTURE FEE	Item No.
<p>* SECTION TWENTY-ONE INFRASTRUCTURE FEE IS CANCELLED BY ORDER NO. <u>(INSERT ORDER NO.)</u> EFFECTIVE <u>(INSERT DATE)</u>.</p>	

See Item 10 for explanation of abbreviations and symbols.

Correction No	Order No. Ordinance No.	Adopted Adopted	EFFECTIVE:
---------------	----------------------------	--------------------	------------

SECTION TWENTY-ONE -- Continued

Item No.

Intentionally left blank

See Item 10 for explanation of abbreviations and symbols.

Correction No.	Order No. Ordinance No.	Adopted Adopted	EFFECTIVE:
----------------	----------------------------	--------------------	------------

SECTION TWENTY-ONE -- Continued

Intentionally left blank

See Item 10 for explanation of abbreviations and symbols.

Correction No.

Order No.
Ordinance No.

Adopted
Adopted

EFFECTIVE: