

RECOMMENDATION APPROVED;  
RESOLUTION'S 20-9613 AND 20-9614 ADOPTED  
\*\* Amended as set forth below with attached "INSERT A" \*\*  
BY THE BOARD OF HARBOR COMMISSIONERS



Executive Director's  
Report to the  
Board of Harbor Commissioners

March 9, 2020

*Amber M. Klesges*  
AMBER M. KLESGES  
Board Secretary

DATE: MARCH 5, 2020

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. 20-9613 - ADOPTION OF A JOINT 2020 CLEAN TRUCKS PROGRAM RATE RESOLUTION AND RESOLUTION NO. 20-9614 - APPROVAL OF A 2020 CLEAN TRUCK FUND RATE

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) approve a 2020 Clean Truck Fund (CTF) Rate amount to be set at \$10 per Twenty-Foot Equivalent Unit (TEU). The CTF Rate will be charged to the Beneficial Cargo Owners (BCOs) that utilize trucks hauling loaded containers in and out of the marine terminals at the ports of Los Angeles and Long Beach (Ports), with a permanent full exemption for California Air Resources Board (CARB) certified zero emission (ZE) trucks, and a temporary full exemption for CARB certified heavy-duty low nitrogen oxides (NOx) trucks through December 31, 2031. After this date, only ZE trucks will be exempt from the CTF Rate. Though details of how money collected from the fee is to be administered and disbursed will be developed through stakeholder engagement in the next few months, the Ports plan to use the money collected from the CTF Rate to provide incentive funding toward the purchase of low NOx and ZE trucks including supportive infrastructure, and to pay consultant fees to collect the CTF Rate at their container terminals. The Port of Long Beach (POLB) is requesting the same action from its Board. Staff also requests that the Board adopt the Joint 2020 Clean Truck Program Rate Resolution.

The City of Los Angeles Harbor Department (Harbor Department) is setting the amount of the CTF Rate in advance of tariff approval to allow for stakeholder planning. This additional time will allow various stakeholders, including the BCOs, shipping lines and trucking companies, to incorporate this information into their annual contract negotiations for 2020 pricing. The CTF Rate amount will not be collected until the following actions take place: (1) CARB adoption of a heavy-duty low NOx engine manufacturing standard; (2) Board approval of a CTF Rate collection mechanism; and (3) adoption of a Port of Los Angeles (POLA) Tariff Amendment by the Board and the Los Angeles City Council that authorizes the details of the CTF Rate collection.

Staff plans to return to the Board and City Council later in 2020 with a request to adopt and begin collecting the CTF Rate through a POLA Tariff Amendment including this 2020 CTF Rate and other details. Setting the CTF Rate amount has no financial effect on the

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Harbor Department or others, unless and until CTF Rate collection commences pursuant to Board and City Council adoption of a POLA Tariff Amendment as described.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

1. Find that the Director of Environmental Management has determined that the proposed action is generally and statutorily exempt from the California Environmental Quality Act (CEQA) under Sections 15061(b)(3), 15262, and 15273 of the State CEQA Guidelines;
2. Approve, for planning purposes, the 2020 Clean Truck Fund (CTF) Rate amount at \$10 per Twenty-Foot Equivalent Unit (TEU) with the following exemptions:  
**\*\*Amended as set forth in attached "INSERT A"**
  - ~~Full exemption of the CTF Rate for the pick-up or drop-off of a loaded container hauled by a California Air Resources Board (CARB) certified zero emission (ZE) truck throughout all collection periods;~~
  - ~~Full exemption of the CTF Rate for the pick-up or drop-off of a loaded container hauled by a CARB certified low nitrogen oxides (NOx) truck between the start of the CTF Rate collection from commencement in 2020 through December 31, 2031; and~~
  - ~~Starting January 1, 2032, low NOx trucks are proposed to pay the full CTF Rate amount to encourage transition to ZE trucks.~~
3. Adopt the Joint 2020 Clean Truck Program Rate Resolution No. 20-9613 as amended by the Boards and set forth in the signed Joint Resolution; and
4. Adopt Resolution No. 20-9614

**DISCUSSION:**

Background/Context – In 2006 and 2010, the Ports adopted the first and second iterations of the San Pedro Bay Ports Clean Air Action Plan (CAAP). The original CAAP planned measures the Ports would take to reduce emissions from Port-related operations, specifically, from ocean-going vessels, trains, trucks, cargo handling equipment and harbor craft. One of the most notable and successful strategies contained in the original CAAP was the Clean Truck Program (CTP). Starting in 2008, the CTP helped the drayage industry transition towards the State Drayage Truck Rule requirement that mandated statewide port trucks to use 2007 U.S. Environmental Protection Agency (EPA) compliant trucks by 2014. The CTP set a goal of 2012 for this transition.

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In order to help incentivize trucking companies to replace their trucks, the Ports charged a clean truck fee of \$35 per TEU to BCOs on loaded cargo carried by any drayage truck that did not meet the 2007 EPA compliance standard. The Ports used the money collected to administer the CTP and provide incentive funding for truck drivers and trucking companies to purchase clean trucks. Notably, as a result of the successful CTP efforts over the years, air emissions from the Ports' drayage fleet have been reduced by 97% for diesel particulate matter (DPM), 78% for NOx, and 92% for sulfur oxides (SOx) compared to 2005. These reductions in emissions took place despite an increase in cargo volumes of over 25%. However, even with these tremendous improvements, heavy-duty trucks remain the Ports' largest source of greenhouse gas emissions (GHGs) and second highest source of NOx.

CAAP 2017 Update – The 2017 CAAP Update was adopted in 2017. The updated strategies in the 2017 CAAP Update support the Ports' aggressive effort to clean the air for the community, move toward utilization of zero-emission freight moving equipment, plan for zero-emissions infrastructure, encourage freight efficiency, and address energy resources. As part of the 2017 CAAP Update, the Ports committed to a new version of the landmark CTP. In order to reduce NOx and GHGs, the goal of the new version of the CTP is to help encourage the transition to near-zero trucks in the near term, while ultimately helping to transform the fleet to ZE trucks by 2035. An important element in the 2017 CAAP Update's CTP is the establishment of a CTF Rate.

CTF Rate – The basis for the CTF Rate is outlined in the 2017 CAAP Update, which identifies that, beginning in 2020, a rate will be charged to the BCOs for heavy-duty trucks hauling loaded containers that utilize the Ports' terminals, with reduced or eliminated charges for trucks that have engines certified to the CARB near-ZE's manufacturing standard (CARB refers to it as "Heavy-Duty Low NOx engine standard"<sup>1</sup>) or better. Though details of how money collected from the fee is to be administered and disbursed will be developed through stakeholder engagement in the next few months, the money collected from the CTF Rate is intended to be used to provide incentive funding toward the purchase of low NOx and ZE trucks including supportive infrastructure, and to pay consultant fees to collect the CTF Rate at the Ports' container terminals.

As further stated in the 2017 CAAP Update, implementation of this CTF Rate would be contingent upon the following factors<sup>2</sup>:

- Completion of a Truck Feasibility Assessment to understand the current status of low NOx and ZE heavy-duty truck technology development, including evaluation of availability of heavy-duty trucks meeting the lower emissions standards

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<sup>1</sup> <https://ww2.arb.ca.gov/our-work/programs/heavy-duty-low-nox/about>

<sup>2</sup> <https://cleanairactionplan.org/documents/final-2017-clean-air-action-plan-update.pdf/>, at pages 39-40.

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- Completion of an Economic Study of the CTF Rate to understand the potential effect of the rate on cargo diversion and the local drayage truck industry
- Establishment of a CTF Rate collection mechanism
- Regulatory agency adoption of a heavy-duty low NOx engine manufacturing standard

The Economic Study for the CTF Rate<sup>3</sup> and the Truck Feasibility Assessment<sup>4</sup> are complete and posted on the CAAP website. The CTF Rate collection mechanism contract is planned for Board consideration in April of 2020. CARB plans to adopt a heavy-duty low NOx engine manufacturing standard at a CARB Meeting in the Spring of 2020.<sup>5</sup>

CTF Rate Action – The Ports are bifurcating the efforts associated with the CTF Rate into the following two actions:

- This action: At present, request Board adoption of a Resolution to approve the CTF Rate amount and provide exemptions on certified heavy-duty low NOx trucks and ZE trucks through December 31, 2031. Beginning on January 1, 2032, only ZE trucks will be exempt from the CTF Rate. The Harbor Department is taking this initial action for planning purposes, which allows the shipping industry to plan their annual contract negotiations for 2020 pricing. This action has no effect on the collection of the CTF Rate until the following future action occurs.
- Future action: In later 2020, request Board adoption of a POLA Tariff Amendment to collect the CTF Rate. This action will give the Harbor Department the authority to begin collecting the CTF Rate from the BCOs as of a specified date and finalize all conditions. The timing of this action is contingent upon the bulleted factors listed in the CTF Rate section immediately above.

CTF Rate Public Process – The Ports have been engaged in stakeholder outreach on the latest iteration of the CTP since 2015. Throughout the two-year development of the 2017 CAAP Update, significant emphasis was placed on the CTP, and numerous meetings and discussions were held with the regulatory agencies, trucking industry, broader port industry, technology providers, community members, and environmental groups to receive input on the intended approach. Since the 2017 CAAP Update was approved, the Ports have continued to discuss the next steps in the implementation of the CTP through CAAP Quarterly Stakeholder Meetings, eight of which have been held to date,

<sup>3</sup> <https://cleanairactionplan.org/documents/draft-economic-study-for-the-clean-truck-fund-rate.pdf/>

<sup>4</sup> <https://cleanairactionplan.org/documents/final-drayage-truck-feasibility-assessment.pdf/>

<sup>5</sup> The U.S. Environmental Protection Agency (EPA) announced "EPA intends to work with CARB to initiate the development of a new harmonized Federal and California comprehensive NOx reduction program for heavy-duty on-highway engines, including lower NOx emission standards for heavy-duty on-highway engines and vehicles...." in response to various California air district petitions requesting EPA regulatory action.

<https://www.epa.gov/sites/production/files/2016-12/documents/nox-memorandum-nox-petition-response-2016-12-20.pdf>

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and focused smaller group meetings with industry, agencies, and environmental groups. Specifically related to the CTF Rate development, the Ports hosted a public workshop on August 1, 2019, to receive initial comments on the objectives and approach for the CTF Rate. Additional public workshops were held on December 18, 2019, and January 15, 2020, to receive input on the Draft Economic Study and the proposed CTF Rate presented in this document. The Ports received written comments through January 31, 2020. The Ports will continue communicating with the stakeholders and receiving public input leading up to a joint Board's consideration of adoption of this Resolution to approve the CTF Rate amount at a special joint meeting on March 9, 2020. The Ports will continue to work with stakeholders following each Board's action on the Resolutions to receive input on the details of the incentive programs and the implementation tariffs, which are expected to be brought to the Boards for consideration in later in 2020.

General Stakeholder Themes – Ports received over 40 letters from stakeholders throughout the comment period. The following is a summary of the general themes addressed in those letters:

- Cargo owners and shippers want no rate or as small as possible in order to avoid increased costs in the San Pedro Bay. These stakeholders expressed concern about diversion of cargo.
- Many trucking companies sought lower rates out of concern that the rates would be pushed down to them in the market place. Certain trucking associations also indicated they would consider initiating litigation, based on federal pre-emption concepts, if a rate is imposed. Some truckers are pushing for a higher rate, as much as \$100/TEU, as they believe this could influence BCOs to help pay for new trucks.
- Agencies and environmental advocacy groups want as high of a rate as possible, as they believe this will help incentivize the turn-over of older diesel trucks.
- Various stakeholders felt that timelines for CTF Rate exemptions for low NOx trucks should be adjusted.

Economic Study for the Clean Truck Fund Rate – The CTF Economic Study evaluates the capacity of the goods movement industry to absorb the cost of the CTF Rate above existing costs and fees. The purpose of this study was to assess how the CTF rate would affect the potential for cargo diversion, the drayage industry, and the Ports' economic competitiveness.

The analysis considers potential clean truck fund rates in the range of \$5 to \$70 per loaded TEU. The following are key points from the study:

- Modeling was used to estimate the sensitivity of San Pedro Bay market share for Chicago-bound cargo to transit time and cost as compared to transport through the Port of NY/NJ. The model predicts a diversion of only 1.4% for local cargo, since there are few alternatives for this cargo in the near term, even at \$70/TEU.

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Note that local cargo is most likely to be impacted by the CTF Rate, as it is typically moved by truck.

- This is consistent with previous analyses of sensitivity to diversion of local cargo brought into the San Pedro Bay, though these previous assessments indicate the effect is likely to be short term, as local markets adjust. The Economic Study reaches a similar conclusion that the low elasticity for local cargo predicted by the model would increase (i.e. greater diversion potential) in the near to medium term as the local market begins to adjust, especially at higher CTF rate levels. Recent changes in market conditions due to global trade policies may have made cargo even more sensitive to cost increases. Export cargo is also very sensitive to cost.
- Historical analysis shows that the Ports have experienced losses in their market share of containerized imports from Asia to ports on the East and Gulf Coasts. The Ports' share of total Pacific Rim containerized imports fell from 52.7 percent in 2007 to 46.4 percent in 2017.
- A CTF rate in the range studied (\$5-\$70/TEU) is not enough, by itself, to cause a trucking company to choose to replace its current trucks, due to the very high cost of the low NOx (\$200,000) and ZE trucks (\$350,000+). Paying the CTF Rate needs to be balanced vs purchasing a new low NOx or ZE truck.
- Purchase of a low NOx or ZE truck can be made competitive through grants, including money collected by the CTF Rate, though multiple grants may be needed to help trucking companies that typically purchase used California compliant diesel drayage trucks for as little as \$50,000.
- Given that higher CTF rates would likely increase diversion of local cargo in the near to medium term without causing truckers to purchase a low-NOx and ZE truck (in the absence of grant money), the Ports should exercise caution in setting a rate, starting at a lower CTF rate to try to limit diversion while still generating a substantial grant fund.
- The transition of trucks to new, cleaner equipment will take a collaboration of agency grant money (South Coast Air Quality Management District, CARB, EPA, and Ports) and substantial private sector investment to reach the Ports' goal of 100% ZE by 2035.

Proposed 2020 CTF Rate Amount for Board Adoption – Based on the CTF Economic Study and assessment by port experts, staff hereby proposes a CTF Rate of \$10 per loaded TEU (\$20 per typical loaded 40-foot container) with the following exemptions:

- Full exemption of the CTF Rate for the pick up or drop off of a loaded container hauled by a CARB certified ZE truck throughout all collection periods;
- Full exemption of the CTF Rate for the pick up or drop off of a loaded container hauled by a CARB certified low NOx truck between the start of the CTF Rate collection from commencement in 2020 through December 31, 2031; and
- Starting January 1, 2032, low NOx trucks are proposed to pay the full CTF Rate amount to encourage transition to ZE trucks.

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Numerous factors have been considered when developing this proposal. These are included in a CTF Rate Staff Evaluation and Recommendation (Transmittal 2). Key conclusions include:

- Approximately 18,000 trucks are currently registered in the Ports' Drayage Truck Registry, including nearly 8,000 trucks meeting USEPA 2007 emissions standards. These 8,000 will have to be replaced by 2023 when CARB's Truck and Bus Rule mandates that they meet at least USEPA 2010 emissions standards.
- The CTF Rate of \$10 per loaded TEU would initially generate approximately \$90 million per year, based on recent cargo volumes and anticipated exemptions.
- This rate amount is being recommended to provide a balanced approach to achieving the Ports' objectives of reducing emissions for reducing impacts to community health and to meet our criteria pollutant and GHG reduction goals, while minimizing unintended consequences related to economic impacts and disruption to the industry.
- The amount of funding that is being proposed is significant. Having a dedicated and recurring funding program on the order of magnitude of what is being proposed, dedicated specifically to the Ports' drayage truck industry, will be transformational. For example, if incentives are offered at \$100,000 per truck, consistent with recent low NOx truck incentive programs, up to 900 trucks per year could be replaced.
- In the original CTP, the trucking industry paid more than \$1 billion to meet the CTP's goal of early transition to CARB's 2014 Drayage Truck Rule in-use standard. The 2017 CAAP Update indicates that for the latest CTP Update, substantial funding support by state and federal agencies will be critical to build upon the efforts of the Ports' CTP strategies to meet the ultimate goal of 100% ZE's by 2035, as no CARB in-use rule is imminent that will help motivate industry to make this transition.
- The uncertainties and considerations raised in the CTF Rate Proposal lead us to recommend moving forward cautiously as the most prudent and sustainable approach in initiating the CTF Rate amount.
- The Ports' Economic Study raised concerns about competitiveness and potential cargo diversion mainly from the cost that would be added, in addition to other factors.
- Both Ports have already experienced a steady reduction in market share for more than a decade. A high added cost may have the potential to accelerate that trend. Feedback received from cargo owners have indicated that the industry is likely to have a negative reaction to a higher rate amount that is not predictable by solely analyzing the specific additional cost of the CTF Rate.
- Further, as identified in the Ports' truck feasibility assessment and the Ports' ongoing evaluation of the development of the low NOx and ZE technologies, there is currently limited availability of low NOx and ZE Heavy-Duty trucks. This limit on

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availability will affect how many trucks can be purchased and deployed using incentive funds.

- The Ports will work with stakeholders in the coming months to identify details for how the CTF Rate revenues will be used, including timing for grants to support transition to low NOx and ZE trucks, and confirmation that trucks receiving grants are operating in Port service. It is anticipated that the incentive program would be administered by a third party.
- The Harbor Department will monitor performance of this proposed rate and report to the Board annually, including revenue generated and grant administration.

The Los Angeles and Long Beach Boards always have the ability to use their discretion to make adjustments to the CTF Rate amount over time based on continued evaluation of progress of the CTF in relation to other market conditions. Staff requests that the Board adopt the 2020 CTF Rate amount at this time for planning purposes, with the understanding that no rate amounts will be collected until after the future tariff action, expected sometime in 2020.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of the CTF Truck Rate, which is an action that can be seen with certainty that there is no possibility of a significant adverse effect on the environment, is a planning study for possible future action, and is the first step in a rate setting activity. Therefore, the Director of Environmental Management has determined that the proposed action is generally and statutorily exempt from CEQA in accordance with Sections 15061(b)(3), 15262, and 15273 of the State CEQA Guidelines.

**FINANCIAL IMPACT:**

The Harbor Department anticipates generating approximately \$50 million in annual revenue from collection of the CTF Rate at POLA (approximately \$90 million with POLB). This money will be used to provide incentive funding toward the purchase of low NOx and ZE trucks including supporting infrastructure, and to pay consultant fees to collect the 2020 CTF Rate at POLA's container terminals. The agreement with such consultant will be submitted to the Board as a separate Board item.

Setting the CTF Rate amount as a planning activity for future action has no financial effect to the Harbor Department or others, unless and until CTF Rate collection commences pursuant to a future tariff adopted by the Board and City Council, forecast to occur in 2020 after occurrence of various conditions precedent.

**CITY ATTORNEY:**

The Office of the City Attorney has reviewed and approved as to form and legality the resolutions adopting the 2020 CTF Rate.

DATE: MARCH 5, 2020

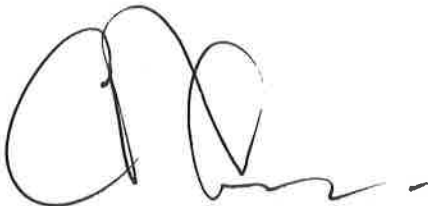
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**TRANSMITTALS:**

1. 2020 Joint Clean Truck Program Rate Resolution
2. 2020 Clean Truck Fund Staff Rate Staff Evaluation and Recommendation
3. Draft Economic Clean Truck Fund Rate Study Written Public Comments
4. Final Economic Study for the Clean Truck Fund Rate

FIS Approval: MB  
CA Approval: SD



CHRISTOPHER CANNON  
Director of Environmental Management



MICHAEL DIBERNARDO  
Deputy Executive Director

APPROVED:



For

EUGENE D. SEROKA  
Executive Director

CC/yo  
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**Recommendation 2 of Resolution 20-9613 is amended by this \*\* "Insert A"**

- (a) Approve, for planning purposes, the 2020 Clean Truck Fund (CTF) Rate amount at \$10 per Twenty-Foot Equivalent Unit (TEU) for loaded containers hauled by Heavy-Duty trucks that enter or exit Port terminals, and request a report back from Staff regarding exemptions up to 2031 prior to implementation of the rate later this year.
  - This section shall not apply to zero emissions trucks, which shall be exempt for the duration of the program.
- (b) Affirm that both Boards of Harbor Commissioners will meet annually to review the level of the CTF rate to ensure it continues to support long term CAAP goals.
- (c) Continue to work with the South Coast Air Quality Management District, the California Air Resources Board, Equipment Manufacturers, and other partners as appropriate, to develop a comprehensive long term strategy, including market development, technology development, and product deployment, aimed at supporting achievement of the goals established in the 2017 CAAP update. Provide regular updates on the strategy to the Boards of Harbor Commissioners with the first update within 4 months.
- (d) Work to convene additional Port authorities to encourage similar Clean Truck Programs at ports in the United States and around the world.

LONG BEACH HARBOR DEPT. RESOLUTION NO. 2982  
LOS ANGELES HARBOR DEPT. RESOLUTION NO. 20-9613 & 20-9614

A JOINT RESOLUTION OF THE BOARD OF HARBOR  
COMMISSIONERS OF THE CITY OF LOS ANGELES AND THE  
BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG  
BEACH ADOPTING THE 2020 CLEAN TRUCKS PROGRAM RATE

FINDINGS

The Board of Harbor Commissioners of the City of Los Angeles ("LA Board") and the Board of Harbor Commissioners of the City of Long Beach ("LB Board") (each a "Board" and collectively "Boards") find as follows:

*Clean Air Action Plan and the Clean Trucks Program*

1. At the Joint Special Meeting held on November 20, 2006, the respective Boards of Harbor Commissioners on behalf of the Port of Los Angeles and the Port of Long Beach (each a "Port" and collectively the "Ports") adopted the San Pedro Bay Ports Clean Air Action Plan ("CAAP"). The original CAAP planned measures the Ports would take to reduce emissions from Port-related operations, specifically from ocean-going vessels, trains, trucks, cargo handling equipment and harbor craft. The Ports also adopted a 2010 CAAP Update that included additional strategies and updated measures.

2. One of the most successful strategies contained in the CAAP was the Clean Truck Program ("CTP"), which led the trucking industry to replace the existing fleet of trucks that provided drayage services at the Ports with cleaner trucks. Starting in 2008, the Ports helped the industry transition towards the State Drayage Truck Rule requirement that required statewide port trucks to use 2007 United States Environmental Protection Agency ("EPA") compliant trucks by 2014, by advancing phased early adoption at the Ports by 2012. The Ports also provided incentives to trucking companies to replace their older trucks with clean trucks, funded in part by a clean truck fee charged on loaded cargo carried by any drayage truck that did not meet the 2007 EPA compliance standard.

3. Notably, as a result of the successful CTP efforts over the years, as of 2018, air emissions have been reduced by 97% for Diesel Particulate Matter (“DPM”), 78% for Nitrogen Oxides (“NOx”), and 92% for Sulfur Oxides (“SOx”) compared to 2005. However, even with these tremendous improvements, heavy-duty trucks remain the Ports’ largest source of greenhouse gas emissions (“GHGs”) and second highest source of NOx.

#### Clean Air Action Plan 2017 Update and the Clean Truck Fund Rate

4. The Final 2017 CAAP Update (“CAAP Update”) was adopted by the Boards on November 2, 2017. The updated strategies in the CAAP Update support the Ports’ aggressive effort to clean the air for the community, move toward utilization of zero emission (“ZE”) freight moving equipment, plan for ZE infrastructure, encourage freight efficiency, and address energy resources. As part of the CAAP Update, the Ports committed to new measures for the landmark CTP that continue to serve as models for more sustainable goods movement by transitioning to the cleanest trucks for cargo movement to and from marine terminals. In order to reduce NOx and GHGs, the goal of the CTP in the CAAP Update is to transition to near-zero trucks in the near term, while transforming the fleet to zero-emission trucks by 2035.

5. A critical element in the CAAP Update’s CTP is the establishment of a Clean Truck Fund Rate (“CTF Rate” or “Rate”). The CAAP Update provides that beginning in 2020, a rate will be charged to the beneficial cargo owners (“BCOs”) on loaded containers hauled by heavy-duty trucks that enter or exit the Ports’ terminals, with exemptions for trucks that have engines certified to the California Air Resources Board (“CARB”) ZE standard and low NOx emissions manufacturing standard or better. CARB has adopted ZE testing and certification standards for heavy-duty powertrains that will be effective April 1, 2020.<sup>1</sup> CARB is now in coordination with US EPA to develop the low NOx manufacturing standard as its “Heavy-Duty Low NOx engine standard”.<sup>2</sup>

6. As further stated in the CAAP Update, implementation of this CTF Rate

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<sup>1</sup> <https://ww2.arb.ca.gov/rulemaking/2019/zepcert2019>

<sup>2</sup> <https://ww2.arb.ca.gov/our-work/programs/heavy-duty-low-nox/about>

would be contingent upon the following factors:

- a. Completion of a truck feasibility assessment to understand the current status of low NOx and ZE heavy-duty truck technology development, including evaluation of availability of heavy-duty trucks meeting the lower emissions standards;
- b. Completion of an economic study of the CTF Rate to understand the potential effect of the Rate on cargo diversion and the local drayage truck industry;
- c. Establishment of a CTF Rate collection mechanism; and
- d. Regulatory agency adoption of a heavy-duty low NOx engine manufacturing standard.

7. The Ports are bifurcating the efforts with the CTF Rate into the following two actions:

- a. Current Rate Resolution: Boards' adoption of a Resolution to approve the amount of the CTF Rate with certain exemptions for use of low NOx and zero emissions trucks. The Boards are taking this initial action for planning purposes to assist stakeholders' planning for Rate implementation. This action has no immediate effect on stakeholders as the Rate will not be collected until the following action occurs.
- b. Future Tariff Action: Boards' adoption of a Tariff Amendment to collect the CTF Rate. This action will give the Ports the authority to begin collecting the Rate from the BCOs as of a specified date and apply all conditions such as CTF Rate exemptions. The timing of this action is contingent upon the contingencies listed in the CAAP Update, summarized in section 6 a through d above.

8. As required in the CAAP Update, the Ports completed an economic study in January 2020 ("Economic Study"), which is posted on the CAAP website at <https://cleanairactionplan.org/documents/draft-economic-study-for-the-clean-truck-fund-rate.pdf/>. The Economic study incorporates multiple sources of information:

- a. Previous evaluations of diversionary impacts of increased costs;
- b. Econometric analysis by a consultant (Davies Transportation) to evaluate

- how a range of potential rates could affect potential diversion, impact the drayage industry and generate revenue from the collection of the Rate;
- c. Additional evaluation of the current port industry competitive environment; and
  - d. Input from stakeholders in meetings and workshops.
9. The major conclusions that can be drawn from the Economic Study include:
- a. A CTF Rate in the range studied (\$5-\$70/TEU) is not sufficient by itself to change the makeup of the drayage truck fleet.
  - b. Low NOx and ZE trucks can be made competitive with the incumbent diesel fleet through subsidies.
  - c. Based on the relationship between transit cost and travel time in 2012-2017, rates of up to \$70/TEU would result in 1.4% diversion.
  - d. Recent changes in market conditions may have made cargo even more sensitive to additional cost increases.
  - e. Given that higher CTF Rates increase diversion without increasing low NOx and ZE drayage truck adoption, a lower CTF Rate should be selected.
  - f. Historical analysis shows that POLA and POLB have experienced losses in their market share of containerized imports from Asia to ports on the East and Gulf Coasts. The POLA/POLB market share has declined steadily since 2003, falling from 55.7 percent in 2003 to 44.3 percent in 2018.<sup>3</sup>
  - g. In 2006, total Inland Point Intermodal (IPI) (inbound and outbound) containers through POLA/POLB peaked at 43 percent of total volume. By 2018, the share of IPI traffic had declined to just 31 percent.
    - In absolute terms, although total POLA/POLB volumes have increased from 15.8 million TEU to 17.5 million TEU between 2006 and 2018, IPI volumes have actually decreased by 1.6 million TEU.
    - This annual IPI loss from 2006 to 2018 equates to a loss of \$969 million (2019) in revenue to POLA/POLB (this does not include lost Alameda Corridor revenue).<sup>4</sup>

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<sup>3</sup> Economic Study, p. 9.

<sup>4</sup> Economic Study p. 10.

- h. Container diversion will occur for any of the rates being considered.
- i. None of the considered Rates will cause the drayage trucking industry to divest of their current trucks to purchase the low-NOx or ZE trucks because of the high cost differential to purchase low NOx and ZE technologies.
- j. The best way to get the drayage trucking industry to divest of their current trucks and purchase the low-NOx or ZE trucks is to provide incentive money toward the purchase of those trucks.

10. The 2018 Drayage Truck Feasibility Study reporting on the status of drayage truck technology was completed by the Ports in 2019 and is posted on the CAAP website at <http://www.cleanairactionplan.org/documents/final-drayage-truck-feasibility-assessment.pdf/>

11. A Clean Truck Fund Rate Staff Evaluation and Recommendation (“CTF Rate Recommendation”) has been prepared by staff at both Ports to address key findings and the Ports’ policy recommendations based upon the Ports’ business concerns, apart from the Economic Study. The numerous factors that have been considered when developing the proposal for the CTF Rate and exemptions are included in the CTF Rate Recommendation. Key conclusions include:

- The CTF Rate of \$10 per loaded TEU, would initially generate approximately \$90 million per year, based on recent cargo volumes and anticipated rebates.
- This Rate amount is being recommended to provide a balanced approach to achieving the Ports’ objectives of reducing emissions for reducing impacts to community health and to meet our criteria pollutant and greenhouse gas reduction goals, while minimizing unintended consequences related to economic impacts and disruption to the industry.
- The exemptions are being recommended to encourage early investment in low-NOx trucks, while maintaining a long-term focus on the transition to ZE trucks.
- The amount of funding that is being proposed is significant. Having a dedicated and recurring funding program on the order of magnitude of what is being proposed, dedicated specifically to the Port drayage truck industry, will be transformational. For example, if incentives are offered at \$100,000 per truck, consistent with recent low NOx truck incentive programs, up to 900 trucks per

year could be replaced.

- The uncertainties and considerations raised in the CTF Rate Recommendation lead us to recommend moving forward cautiously as the most prudent and sustainable approach in initiating the CTF Rate amount.
- The Ports' Economic Study raised concerns about competitiveness and potential cargo diversion both from the cost that would be added, in addition to other factors.
- Both Ports have already experienced a steady reduction in market share for more than a decade. A high added cost may have the potential to accelerate that trend. Feedback received from cargo owners have indicated that the industry is likely to have a negative reaction to a higher rate amount that isn't predictable by solely analyzing the specific additional cost of the CTF Rate.
- Further, as identified in the Ports' truck feasibility assessment and the Ports' ongoing evaluation of the development of the low NOx and zero emission technologies, there is currently limited availability of low NOx and ZE heavy-duty trucks. This limit on availability will affect how many trucks can be purchased and deployed using incentive funds.
- The Boards always have the ability to use their discretion to make adjustments to the CTF Rate amount over time based on continued evaluation of progress of the Clean Trucks Programs in relation to other market conditions.

12. In accordance with the CAAP Update, the Ports implemented a CAAP Implementation Advisory Group which has (i) participated in quarterly meetings 2017 through 2019 to advise the Ports' Executive Directors and staff regarding the specific details of CAAP Update implementation, and (ii) oversee regular CAAP Update implementation status reports that were shared publicly at [www.cleanairactionplan.org](http://www.cleanairactionplan.org) and with the Mayors of Long Beach and Los Angeles.

13. Throughout the two year development of the CAAP Update, significant emphasis was placed on the CTP and numerous meetings and discussions were held with the regulatory agencies, trucking industry, broader port industry, technology providers, community members, and environmental groups to receive input on the intended approach. Since the CAAP Update was approved, the Ports have continued to

discuss the next steps in implementation of the CTP through CAAP Quarterly Stakeholder Meetings, seven of which have been held to date, and focused smaller group meetings with industry, agencies, and environmental groups.

14. Specifically related to the CTF Rate development, the Ports hosted public workshops on August 1, 2019 and December 18, 2019 to receive initial comments on the objectives and approach for the CTF Rate. CAAP Stakeholder Meeting was held on January 15, 2020 to present and receive public input on the proposed CTF Rate. The Ports will continue to work with stakeholders following each Board's action on this Resolution, to receive input on the details of the incentive programs and the implementation tariffs, which would be brought to the Boards for consideration later in 2020 following satisfaction of the contingent conditions.

15. It is desirable to set the Rate amount as a first step, as a planning activity to allow the shipping industry to plan for the future CTF Rate collection, although the actual action will not make the Rate effective or collected until after the Tariff action is adopted.

16. Based on the various studies, stakeholder input received throughout this process, the Ports have modified, refined, and finalized a recommendation for the CTF Rate amount to be set at this time for planning purposes, to be eventually adopted in a Tariff planned for Board and, for Los Angeles, City Council, consideration later in 2020.

### RESOLUTION

NOW, THEREFORE, based on the above findings, the Board of Harbor Commissioners of the City of Los Angeles and the Board of Harbor Commissioners of the City of Long Beach resolve as follows:

Section 1. [CEQA] The 2020 CTP Rate Resolution is the first step in a rate setting activity for the purpose of purchasing equipment, and as such, is exempt from the California Environmental Quality Act under State CEQA Guidelines § 15273.

Section 2. [CEQA] The 2020 CTP Rate Resolution is a planning study for possible future action, and as such, is exempt from the California Environmental Quality Act under State CEQA Guidelines § 15262.

Section 3. [CEQA] It can be seen with certainty that there is no possibility

that the approval of the 2020 CTF Rate Resolution may have a significant adverse effect on the environment, as such, the Resolution is therefore exempt under the common sense exemption of State CEQA Guidelines § 15061(b)(3).

Section 4. [CEQA] The Harbor Department Director of Environmental Management for the Port of Los Angeles and the Harbor Department Director of Environmental Planning for the Port of Long Beach shall each file notices of exemption with the County Clerk of the County of Los Angeles and with the State Office of Planning and Research.

Section 5. The CTF Rate is set prior to implementation through a Tariff Amendment for planning purposes to allow the Ports' stakeholders to plan for future implementation. The CTF Rate shall have no financial effect unless and until CTF Rate collection commences pursuant to a future Tariff Amendment adopted by the Board and, in the City of Los Angeles, the City Council, forecast to occur later in 2020 after satisfaction of various conditions precedent set forth in the CAAP Update and in Section 6 of Findings above.

Section 6. Approve, for planning purposes, the 2020 Clean Truck Fund (CTF) Rate amount at \$10 per Twenty-Foot Equivalent Unit (TEU) for loaded containers hauled by Heavy-Duty trucks that enter or exit Port terminals, and request a report back from Staff regarding exemptions up to 2031 prior to implementation of the rate later this year.

- This section shall not apply to zero emissions trucks, which shall be exempt for the duration of the program.

Section 7. Affirm that both Boards of Harbor Commissioners will meet annually to review the level of the CTF rate to ensure it continues to support long term CAAP goals.

Section 8. Continue to work with the South Coast Air Quality Management District, the California Air Resources Board, Equipment Manufacturers, and other partners as appropriate, to develop a comprehensive long term strategy, including market development, technology development, and product deployment, aimed at supporting achievement of the goals established in the 2017 CAAP update. Provide regular updates on the strategy to the Boards of Harbor Commissioners with the first

update within 4 months.

Section 9. Work to convene additional Port authorities to encourage similar Clean Truck Programs at ports in the United States and around the world.

Section 10. This Resolution shall take effect upon the effective date of its adoption by both the LA Board and the LB Board.

Section 11. This Resolution shall take effect as to the Los Angeles Harbor Department in accordance with the provisions of the Los Angeles City Charter Section 245.

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ACTION BY LOS ANGELES BOARD OF HARBOR COMMISSIONERS

I hereby certify that the foregoing resolution was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting of March 9, 2020 by the following vote:

Ayes: Commissioners: President Lee, VP Benwick, commissioners Dirozi, Middleton and Moreno-Luaces

Noes: Commissioners: —

Absent: Commissioners: —

Not Voting: Commissioners: —

Amber Klesges  
Amber Klesges, Board Secretary

APPROVAL AS TO FORM  
CITY OF LOS ANGELES  
MICHAEL N. FEUER, LOS ANGELES CITY ATTORNEY  
JANNA B. SIDLEY, General Counsel

By: [Signature]  
Justin Houterman,  
Deputy City Attorney

March 9, 2020

ACTION BY LONG BEACH BOARD OF HARBOR COMMISSIONERS

I hereby certify that the foregoing resolution was adopted by the Board of Harbor Commissioners of the City of Long Beach at its meeting of March 9, 2020 by the following vote:

Ayes: Commissioners: Colonna, Bynum, Neal  
\_\_\_\_\_  
Noes: Commissioners: Lowenthal, Figueira  
\_\_\_\_\_  
Absent: Commissioners: \_\_\_\_\_  
Not Voting: Commissioners: \_\_\_\_\_

Richard Jordan  
Richard Jordan, Chief of Staff to the Board

APPROVAL AS TO FORM  
CITY OF LONG BEACH  
CHARLES PARKIN, LONG BEACH CITY ATTORNEY

By: Dawn McIntosh  
Dawn McIntosh,  
Deputy City Attorney

March 9, 2020

ACTION BY LONG BEACH BOARD OF HARBOR COMMISSIONERS

I hereby certify that the foregoing resolution was adopted by the Board of Harbor Commissioners of the City of Long Beach at its meeting of March 09, 2020 by the following vote:

Ayes: Commissioners: Neal, Bynum, Colonna


Noes: Commissioners: Egoscue, Lowenthal

Absent: Commissioners: \_\_\_\_\_

Not Voting: Commissioners: \_\_\_\_\_

  
Richard Jordan, Chief of Staff to the Board

APPROVAL AS TO FORM  
CITY OF LONG BEACH  
CHARLES PARKIN, LONG BEACH CITY ATTORNEY

By:   
Dawn McIntosh,  
Deputy City Attorney

March 9, 2020