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CITY ATTORNEY

REPORT NO. R 17 - 0 2 49
JUL 24 2017

REPORT RE:

**DRAFT ORDINANCE AMENDING PORT OF LOS ANGELES
TARIFF NO. 4, SECTION THREE – PILOTAGE**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

As requested by the Board of Harbor Commissioners, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. Pursuant to Charter Section 653(a), this draft ordinance would approve Board of Harbor Commissioners Order No. 17-7222, thereby amending the Port of Los Angeles Tariff No. 4, Section Three, Item No. 330 to increase the charges for pilotage. The Harbor Department maintains a staff of federally licensed port pilots who provide piloting services for vessel movements within the Port of Los Angeles. A tariff is assessed against all vessels subject to the payment of pilotage. These tariff assessments fund port pilot operations to include employee salaries, capital improvements, maintenance and training. The proposed increases are part of a phased cost recovery strategy designed to balance the Port Pilot Division budget and are being made following a recent efficiency study which the Harbor Department shared with maritime industry representatives. Previous to the recent phased implementation of pilotage charge increases, the charges for pilotage had not been increased since 2006, leading to the current budgetary imbalance. The Harbor Department indicates that the rates for pilotage in the Port of Los Angeles will remain competitive and among the lowest on the West Coast.

Charter Findings

On June 1, 2017, pursuant to Los Angeles City Charter Sections 652(a), 652(c) and 653(a), the Los Angeles Board of Harbor Commissioners (Board) adopted Order No. 17-7222, approved the enclosed draft ordinance and recommended that the City Council adopt it. Under Charter Section 653(a), Board Order No. 17-7222 must be approved by the City Council, by ordinance, in order to become effective.

Background and Discussion

The Harbor Department provides piloting service to any vessel entering, departing or shifting within the Port when so requested by her owners, master, operators, charterers or agents. Additionally, the Harbor Department provides piloting services for all ships over 300 gross tons entering, departing or shifting within the Port. A tariff is assessed against all vessels subject to the payment of pilotage. The charges for pilotage are published in the Port of Los Angeles Tariff No. 4, Section Three, Item No. 330.

There are currently three basic components which form the tariff charges for pilotage assessed to vessels subject to the payment of pilotage. These components are based on Gross Registered Tonnage (GRT), Overall Length of Vessel (LOA), and a general assessment (Surcharge per Move). The charge for pilotage is the sum of the GRT calculation, the LOA rate and the Surcharge per Move.

Effective January 1, 2017, the Tariff was amended to increase the LOA rate by twenty-five percent (25%), increase the GRT charge from \$0.0060 to the current rate of \$0.0063, and increase the Surcharge per Move from \$100 to \$105 pursuant to Board Order No. 16-7215. Board Order No. 16-7215 also increased other fees related to pilotage by twenty-five percent (25%): to include the pilot cancellation fee; pilot stand-by fee; assistance charge for a second pilot; and the minimum charge pilotage fee. This rate change was the second step in the Harbor Department's incremental strategy towards balancing the Port Pilot Division budget which was designed to reduce the overall impact of the rate increase to the customers.

At the commencement of the current phased cost-recovery strategy, the Harbor Department's approximately \$10 million cost to operate the Port Pilot Division exceeded the approximately \$7 million total revenue generated from pilotage fees. Prior to 2006, the Harbor Department had primarily adjusted the pilot tariff rate structure to maintain a balanced budget. Since 2007, the Port Pilot Division has been operating at a deficit and will continue to do so until increases can be implemented. The Harbor Department made the decision to withhold adjustments to the pilot tariff rate structure in order to increase competitiveness in a very competitive market that was negatively impacted by the global recessionary economic conditions existing at the time. The Harbor Department seeks the proposed actions to close the current funding shortfall and

enable the Department to offset capital improvement and training costs, deliver more efficient customer service and establish a more sustainable business model.

Summary of Ordinance Provisions

The draft ordinance amends Port of Los Angeles Tariff No. 4, Section Three, Item No. 330 (b),(d),(e),(f) and (g), increasing the rates charged for pilotage. Effective July 1, 2017, the LOA rate would increase by approximately fourteen percent (14%). Other fees related to pilotage would also increase by fourteen percent (14%): to include the pilot cancellation fee; pilot stand-by fee; assistance charge for a second pilot; and the minimum charge pilotage fee.

CEQA Findings

The draft ordinance approves an order modifying the Port of Los Angeles Tariff No. 4 to increase rates and fees charged for pilotage, which is an activity involving the modification of a fee charged for the use of an existing municipal service involving negligible or no expansion of use. As such, the Director of Environmental Management has determined that the proposed activity is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III, Class 1(31) of the Los Angeles City CEQA Guidelines.

Council Rule 38 Referral

The Harbor Department is the proposing department, and the Tariff amendments were discussed and considered with Harbor Department management and staff present in a full public hearing of the Board of Harbor Commissioners on June 1, 2017.

Fee Notice Requirement

The enclosed draft ordinance contains an increase in rates and fees charged for pilotage. Authority to charge and enforce such a fee is given to the Board of Harbor Commissioners under Los Angeles City Charter Sections 652(e) and 653(a). Pursuant to Charter Section 653(a), the City Council must approve by ordinance the Board of Harbor Commissioners' Order setting these fees, which fees go to the Harbor Revenue Fund. The Board of Harbor Commissioners held a noticed public board meeting on June 1, 2017, during which the fee was presented and discussed by the Board and the public prior to adoption of Board orders adopting said fee. The requirements of Government Code Sections 66016 and 66018 requiring City Council public fee hearings are not applicable to this type of fee.

If you have any questions regarding this matter, please contact Deputy City Attorney John Driscoll at (310) 732-3750. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DMM:JD:pj
Transmittal

ORDINANCE NO. _____

An ordinance approving Order No. 17-7222 of the Board of Harbor Commissioners of the City of Los Angeles, amending Port of Los Angeles Tariff No. 4.

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

Section 1. That Order No. 17-7222 passed and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the 1 day of June, 2017, amending Port of Los Angeles Tariff No. 4, be, and the same is hereby ratified, confirmed and approved, which Order is in words and figures as follows:

"ORDER NO. 17-7222

An 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 exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III, Class 1(31) 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.

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 1, 2017


AMBER M. KLESGES
Board Secretary"

Sec. 2. 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 the aforesaid Order of the Board of Harbor Commissioners for periods not exceeding ninety (90) days, and shall have power to place in effect for a like period of time any temporary rule or regulation, rate, toll or charge for the Harbor District.

Sec. 3. 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 City Hall; one copy on the bulletin board located at the Main Street entrance to 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, City Clerk

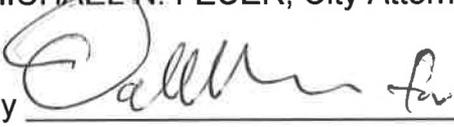
By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
JOHN T. DRISCOLL
Deputy City Attorney

Date 7-24-2017

File No. _____