ORDINANCE NO. HD-

AN ORDINANCE OF THE BOARD OF HARBOR
COMMISSIONERS OF THE CITY OF LONG BEACH
AMENDING ORDINANCE NO. HD-1357, DESIGNATED
TARIFF NO. 4, BY AMENDING SECTION 10 AND
SECTION 11

1. On December 27, 1983, the Board of Harbor Commissioners of the
City of Long Beach adopted Ordinance No. HD-1357, designated Tariff No. 4, which sets
forth rates at which, and terms under which, the Port of Long Beach, California is willing
to provide marine terminal and related services. Tariff No. 4 has been amended from
time to time since 1983. The current version of Tariff No. 4 is made available to the
public on the Port of Long Beach website at polb.com.

2. On November 12, 2007, the Board adopted Ordinance No. HD-1997
which added Section 10 to Tariff No. 4, relating to the San Pedro Bay Ports Clean Air
Action Plan drayage truck measures. On January 7, 2008, the Board adopted Ordinance
No. HD-2005 adding to and amending these drayage truck measures. On January 22,
2008, the Board adopted Ordinance No. HD-2007 which added Section 11 to Tariff No. 4,
relating to an infrastructure cargo fee. The Board now wishes to further amend
Ordinance No. HD-1357 by amending Sections 10 and 11.

3. The San Pedro Bay Ports Clean Air Action Plan (CAAP) was
adopted by the Boards of Harbor Commissioners of Long Beach and Los Angeles on
November 20, 2006. The Ports of Los Angeles and Long Beach are located side-by-side
in San Pedro Bay. In the CAAP, the two ports recognized that their ability to
accommodate projected growth in international trade will depend on their ability to
address adverse environmental impacts, and in particular, air quality impacts, that result
from such trade. The CAAP was designed, in collaboration with the Federal Environmental Protection Agency (U.S. EPA), the California Air Resources Board (CARB) and the South Coast Air Quality Management District (SCAQMD), “to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue.” CAAP, p. 2.

FINDINGS

1. As part of the overall implementation of the CAAP, the Long Beach Harbor Department (“Port of Long Beach” or “Port”), in conjunction with the Port of Los Angeles, has considered numerous proposals to address air pollution from a variety of sources operating within the Harbor District of the City of Long Beach. This process has included public meetings, contacts with private and governmental parties at the local, state and federal level, and review of written submissions and suggestions. This Ordinance reflects close consideration of all of these views.

2. The Port holds legal title to and manages the lands on which it is located as a trustee for the benefit of the People of California. The Port manages the land and tidal water resources associated with the trust under the Long Beach Tidelands Trust (California Constitution Article X; California Public Resources Code Sec. 6306; Long Beach City Charter, Article XII, and Chapter 676, Statutes of 1911, as amended) and the California Coastal Act (California Public Resources Code Div. 20, Sec. 30700 et. seq.), which identify the lands, waters and facilities as a primary economic and coastal resource of the State of California and an essential element of the national maritime industry for promotion of commerce, navigation, fisheries and harbor operations. As trustee, the Port also has a duty to mitigate the environmental impacts of activities on Port property and to preserve the ecology, including the water, land and surrounding air.

3. The Port is one of the largest providers of marine terminal facilities in the United States. The Port is proprietor of facilities that handle over 20% of the nation’s containerized goods: cargo valued at more than $100 billion per annum. Together with
the Port of Los Angeles, the San Pedro Bay ports handle over 40% of the nation’s containerized goods worth more than $200 billion per annum. Failure to take prompt, reasonable, and effective measures to reduce harmful air emissions generated by Port-related activities will prevent the efficient expansion and development of port facilities necessary to meet the increasing demands of the nation’s international maritime commerce.

4. Tens of thousands of individuals work in Port-related jobs, as employees of the Port and employees of businesses involved in moving, handling and shipping maritime cargo, spending many hours every day on the roads and rail lines in the port vicinity. As an employer and as a landlord, the Port has an interest in adopting reasonable measures to assure an efficient, safe and healthy workplace.

5. The Port is in competition with other West Coast, North American and global ports for international maritime commerce business. Just as business customers and users of the Port’s facilities who are leaders in corporate social responsibility and sustainable practices seek modern, environmentally-friendly and sustainable port services, the Port has an interest in adopting reasonable measures to upgrade the infrastructure and to reduce harmful air emissions from Port-related goods movement operations.

6. As neighbor to millions of Californians, the Port has an interest in adopting reasonable measures to assure that Port operations do not injure the health and property of nearby residents. In addition, because the Port requires the support of residents in nearby communities for needed improvements in Port infrastructure, failure to significantly reduce the health and traffic impacts of Port operations on these communities will impede the Port’s ability to handle increased volumes of goods in future.

7. Studies by SCAQMD and CARB have concluded that the more than two million people who live near the Ports of Los Angeles and Long Beach face greater health risks than those who live elsewhere in the region. Implementation of infrastructure
projects, in conjunction with the other components of the CAAP, would contribute to the reduction in premature deaths and health costs in the region.

8. The South Coast Air Basin has the highest concentrations of atmospheric ozone and certain criteria pollutants in the entire United States. In the CAAP, the Ports of Los Angeles and Long Beach have committed to reduce pollutant emissions to the levels that will assure that port-related sources make their fair share of regional emission reductions to enable the South Coast Air Basin to attain state and federal ambient air quality standards. CAAP, p. 24.

9. If the South Coast Air Basin fails to comply with ambient air quality standards by federal Clean Air Act deadlines, the Port and other regional entities may be unable to obtain federal funding for future growth. If the Basin remains out of compliance beyond these deadlines, billions of dollars of federal funding for regional infrastructure improvements could be lost under federal conformity policies.

10. Independently, the failure of the Port to adequately address air pollution impacts and infrastructure capacity would threaten future Port growth both because of legal constraints under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act and the opposition of surrounding residents and communities to further expansion without an actual improvement in environmental conditions surrounding the ports. For example, CEQA requires implementation of all feasible mitigation measures before any project with significant environmental impacts is approved.

11. Although the Port has unique trust responsibilities, the Port is not unique among large property owners or employers in recognizing the benefits of reducing pollution from its facilities, in enhancing the local infrastructure and the environment, promoting employment and living as good neighbors with its surrounding communities. Reasonable environmental measures are simply good business practices.

12. Since the truck and infrastructure tariffs were adopted in November
2007 and January 2008, the ports have continued planning for implementation of the
tariffs and have continued discussions with interested parties. As a result of this process,
several minor amendments to Sections 10 and 11 are necessary to clarify and streamline
these measures.

13. The intent of this Board in adopting the truck and infrastructure fees,
was that the ultimate consumers of the cargo should absorb the true cost of transporting
that cargo without imposing health costs and other externalities on communities
surrounding trade corridors. During the development of the truck fee, industry groups
requested that a definition of the cargo owner be added which expressly excluded ocean
common carriers and certain freight intermediaries. The ports broadened the definition to
provide equal treatment to other similarly situated freight intermediaries. The current
definition of “beneficial cargo owner” in Section 10 of Tariff No. 4, while preserving
neutrality between the various classes of freight intermediaries, adds considerable
complexity and practical implementation issues. As a result, when the Board adopted the
infrastructure fee, the Board did not follow the truck fee model and instead the
infrastructure fee was imposed on “merchandise.” The language used for the
infrastructure fee is similar to that used in other port fees, such as dockage and
wharfage, which have been successfully collected from cargo owners for many years. In
order to harmonize the language of the truck and infrastructure fees, the definition of
“beneficial cargo owner” is hereby deleted and the fee provisions amended to clarify that
where the fees cannot be collected from the cargo owners, due to bankruptcy for
example, the Port will not seek to recover the fees from the vessels that brought the
cargo and related parties.

14. Tariff No. 4 currently requires that the truck fee be collected
beginning on June 1, 2008. However, not all terminals have equipment and processes in
place to assess the fee and are not required to have them in place before August 1,
2008. To give terminal operators time to install and test any necessary equipment, the
commencement date for collection of the truck fee is extended to October 1, 2008.

15. A fundamental objective of the Clean Air Action Plan is to facilitate growth in trade while substantially reducing the impact of trade, not only on a per unit basis but in the aggregate. Consistent with that premise, Section 11 of Tariff No. 4 is hereby amended to provide that the infrastructure fee can only be collected if the truck fee can be collected.

16. The Director of Environmental Planning has determined that these amendments are exempt from CEQA under California Public Resource Code Section 21084, Title 14 of the California Code of Regulations, Section 15273 (rates, tolls, fares, and charges), Section 15301(d)(restoration or rehabilitation of mechanical equipment) and Section 15061(b)(3)(no possibility of significant adverse effect on the environment).

NOW, THEREFORE, the Board of Harbor Commissioners ordains:

Section 1. The Board of Harbor Commissioners of the City of Long Beach hereby adopts the findings set forth above and finds and determines that the following additions to Ordinance No. HD-1357 are exempt from CEQA.

Sec. 2. Based on the findings set forth above, Ordinance No. HD-1357, adopted by the Board of Harbor Commissioners of the City of Long Beach on December 27, 1983, is further amended as set forth in Exhibit "A" attached hereto and by this reference made a part hereof. The amended items shall be effective as of the effective date of this ordinance.

Sec. 3. This ordinance shall be signed by the President or Vice President of the Board of Harbor Commissioners and attested to by the Secretary. The Secretary shall certify to the passage of this ordinance by the Board of Harbor Commissioners of the City of Long Beach, shall cause the same to be posted in three (3) conspicuous places in the City of Long Beach, and shall cause a certified copy of this ordinance to be filed forthwith with the City Clerk of the City of Long Beach. This ordinance shall take effect on the 31st day after its final passage.
ATTEST:

______________________________  President

______________________________  Secretary

I hereby certify that the foregoing ordinance was adopted by the Board of Harbor Commissioners of the City of Long Beach at its meeting of _____________, 2008 by the following vote:

Ayes:  Commissioners:  ________________________________

______________________________  Secretary

Noes:  Commissioners:  ________________________________

______________________________  Secretary

Absent  Commissioners:  ________________________________

Not Voting:  Commissioners:  ________________________________