REPORT

Report: Changes to Tariff 2-A Proposed to be Effective July 1, 2021. **(Maritime)**

MEETING DATE: 4/22/2021

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SUMMARY

The purpose of this report is to give the Board of Port Commissioners (Board) information about proposed amendments to Port of Oakland (Port) Tariff 2-A (Tariff), effective July 1, 2021. This report discusses the most substantive amendments and also identifies some of more minor changes. Staff will be prepared to discuss all proposed changes at the meeting of the Board on April 22, 2021.

BACKGROUND

The Tariff sets forth rates, charges, and general rules and requirements for Port Maritime (Seaport) facilities. From time to time (typically annually, at the beginning of the fiscal year), Port staff recommends amending the Tariff to reflect changes in Seaport facilities, stay current with market rates, remain consistent with Port policies and laws, and update requirements based on best practices and experience. It is important that Tariff No. 2-A remain current and reflect market rates because it is the Port's published rules and schedule of rates and charges for the Seaport. For example, in the absence of negotiated terms with a tenant or user, Tariff rates and terms govern. Even under negotiated agreements, the Tariff remains applicable in many ways and rent negotiations typically consider Tariff rates as one of many inputs. In the last two years, Tariff No. 2-A was amended as follows:

- July 2020: Clarify petroleum bunker wharfage rates; elimination of Monthly Dockage Fee; establish new fees for the registration in the Comprehensive Truck Management Program; increase Truck Parking/Container Depot monthly rates from a range of $150 to $330, to a range of $200 to $400; establish security guard fees; establish a utility connection fee; clarify the Maritime Director's discretion to approve applications for events; and make various other administrative updates.

- July 2019: Change certain dockage and wharfage rates, including a 10% increase to non-containerized cargo not otherwise specified (N.O.S.); increase space assignment rates 7%; establish new fees for the registration in the Comprehensive Truck

Management Program; establish an electric utility assessment for certain tenancies; establish new rules and use fees for the Middle Harbor Shoreline Park; establish new security restrictions for certain types of aircraft; update fresh water utility service provisions; remove the interior-point-intermodal incentive program established in 2009; and make various other administrative updates.

PROPOSED CHANGES EFFECTIVE JULY 1, 2021

Non-Containerized Cargo Wharfage

In 2020, Staff proposed the addition of wharfage rates for liquified natural gas bunkering, hydrogen bunkering, and passengers. The Board did not adopt these items at the time, and Staff is again proposing the establishment of Tariff items for LNG bunkering and passengers (Staff recommends deferring hydrogen bunkering until this alternative fuel is under more serious consideration by the shipping industry). Without rates in the Port's Tariff, it may be difficult or impossible for the Port to collect revenue for these types of wharfage.

Wharfage is a rate charged for the use of a port's wharf or dock to transfer cargo. Bunkering is the fueling of vessels at dock, typically from water (via barge) and less frequently from land (via truck). Bunkering activities are subject to wharfage per the rules of Tariff 2-A, even though cargo (in this case, fuel) may not pass over a wharf.

- Liquified natural gas (LNG) bunkering: Port staff has received inquiries for liquified natural gas (LNG) bunkering rates at the Seaport, and has become aware that several ocean carriers have already committed to, or are investigating, the use of LNG as a means of complying with various air pollution-related environmental laws and regulations. As noted above, a wharfage rate for LNG would ensure the Port can collect revenue for this service, when the ocean carriers begin using LNG. The absence of a wharfage rate for LNG does not prevent an ocean carrier from bunkering with LNG – ocean carriers contract independently for fueling services of their choice, just as they do other services. Staff proposes to set rates for LNG bunkering, as new Items 07280 and 07282, in the amounts of 34 and 63 cents per unit of measure. Based on potential LNG bunkering operations, this could generate revenue of about $1,100 per bunker event or about $57,000 per year. Very few comparable rates are available at this time; as this market develops, Staff would track rates (if approved) to determine if future adjustments are necessary. Attachment A provides more information about LNG, and Staff will be available to discuss the shipping industry's interest in LNG at the Board meeting.

- Passengers. In 2020, the Port received an unanticipated cruise ship with passengers requiring disembarkation. Rates do not currently exist for passengers in the Tariff. While the Port does not expect to receive cruise vessels or passengers routinely, establishing a passenger wharfage rate would allow the Port to collect revenue for such activity in the future. Staff proposes to set a rate for passengers, as new Item 07960, in the amount of $11 per passenger inclusive of baggage. This rate is based on a comparison of rates at various ports around the U.S. For context, at the proposed rate, the 2020 passenger debarkation would have resulted in one-time revenue of about $26,000.

Space Assignment Rates

Revenue from month-to-month agreements typically increases based on changes to Tariff rates for Space Assignments (Tariff Item X-B). Certain longer-term agreements also have rent increases linked to Item X-B. These rates were last increased in July 2019. Staff proposes a 5% increase to each rate, with a few exceptions, as shown in the table below. Agreements governed by these rates represent about $22.9 million of revenue annually and the proposed increase would represent about $1.1 million of incremental revenue in FY 2021-22. Staff also proposes to increase the minimum Space Assignment charge to $500 for agreements executed on or after July 1, 2021.

Table 1. Proposed Space Assignment Rate Changes

Space Assignment Type	**Current**	**Proposed**
Land	$ per sq ft per mo	$ per sq ft per mo
Unpaved	$0.144	$0.151
Rocked no light/fence	$0.179	$0.184
Rocked light or fence	$0.179	$0.188
Rocked light and fence	$0.201	$0.211
Paved no light/fence	$0.213	$0.219
Paved light or fence	$0.213	$0.224
Paved light and fence	$0.264	$0.277
Submerged land	$0.144	$0.151
Buildings/Office	$ per sq ft per mo	$ per sq ft per mo
Warehouse	$0.42	$0.44
Warehouse in bond storage	$0.45	$0.47
Office space no air conditioning	$1.40	$1.47
Office space air conditioning	$1.57	$1.65
Other		
Mobile food vendor	$171.00 per mo	$200.00 per mo
Dredged Material Rehandling Tipping Fee	$21.00 per cy	$22.05 per cy
Dredged Material Rehandling Facility Rate	$0.213 per sq ft per mo	$0.224 per sq ft per mo

Sq ft = square foot; mo = month; cy = cubic yard

Port-Owned Truck Parking/Container Depot Facilities

As staff reported to the Board in 2020, facilities comparable to the Port's Truck Parking/Container Depot at or very near seaport complexes command monthly rates as high as $600 per stall (for ex, near the Ports of Los Angeles/Long Beach); rates drop to the range of $200 to $250 per month per stall for inland locations (e.g., Fairfield and Sacramento). These locations are typically not staffed with gate attendants or security. The Depot, by comparison, is staffed on a 24/7 basis, 365 days a year; controlled by gate attendants; and staffed with security – all services Staff believes are appropriate and necessary in the Seaport. The Port pays to operate the Depot, with operating expenses of about 50% of gross revenues.

In 2020, the Tariff was amended to raise the Depot rates, but the rates remain below market. Staff once again proposes to raise the rates as shown in the table below. Staff believes the increase is appropriate given the Depot's prime location in the heart of the Seaport. Given foreseeable Depot operations (e.g., size and location), the proposed rate increases are expected to result in additional revenue of approximately $860,000 per year.

Table 2. Proposed Truck Parking/Container Depot Rate Changes

	Current	**Proposed**
Monthly Rates		
Tractor	$200	$225
Chassis / Container on Chassis	$375	$425
Other	$400	$450
Daily Rates		
Tractor / Chassis/ Container on Chassis	$30	$34
Reefer Stall	$75	$85
Other	$40	$45

Middle Harbor Shoreline Park

In 2019, the Port established rules and fees for the use of the Middle Harbor Shoreline Park (MHSP), a 38-acre shoreline park built and operated by the Port, located on the Oakland Harbor. The MHSP is open to the public from dawn to dusk. Staff proposes to increase the rates for "rental" of the MHSP as shown in the table below. With the exception of the vendor permit, the proposed increase is about 8%, which includes a 3% increase previously allowed by the Tariff (for FY 2019-20), as well as an additional 5%, which matches land rate increases (see above, Tariff Item X-B). Although there are few comparables for the MHSP, given its unique location, these increases are consistent with other parks in the region. Further, Staff proposes to increase the security deposit requirements for Special Events to three times the base rental, which is consistent with general Tariff requirements, the Port's collection policy, and most short-term agreements.

Table 3. Proposed MHSP Rate Changes

Use Category	Current	Proposed
Event 55 people	$150	$160
Event 105 people	$200	$215
Event 215 people	$500	$540
Jumper	$25	$30
Film or Photography (per hour)	$500	$540
Special Event – Large (per day)	$18,000	$19,500
Special Event – Small (per day)	$8,000	$8,700
Special Event – Large; Security Deposit	$8,000	$24,000
Special Event – Small; Security Deposit	$5,000	$15,000
Port Park Mgr oversight (per hour, 4-hour min)	$250	$270
Vendor/concession permit	$100	$250

Other Items

Staff proposes to update a variety of other less substantive updates:

- Add the new cranes that are anticipated to be placed into service at the OICT and Nutter Terminals, with rental rates 20% higher than the rates for the next-newest cranes on the terminals. Because these new cranes are tenant-owned, it is unlikely they would be rented under "secondary use;" however, in the event of an emergency or other unforeseen event it is important these cranes be in the Tariff. The amendments also would include a note about the cranes that will be demolished and taken out of service.

- Ballast water management and reporting, last adopted/updated in 2000, would be updated to refer to compliance with current regulations and requirements of federal and state regulatory agencies.

- Various clarifications:

    - References to monthly rent and pro-ration of monthly rent when applicable.

    - Cross-reference the terms "maritime" and "seaport," and "Port Area" with references to piers, wharves, and other facilities.

    - Clearly distinguishing between Toxic Materials (which are the subject of the Port's Environmental Ordinance No. 4345) and Hazardous Cargo.

    - Updating the Wharf Assignment and Space Assignment sections so that they are consistent for maintenance requirements and subletting/transfer limitations, eliminate references to an application form, and update the existing (2007) insurance requirements to reflect current practices and requirements.

- Update staffing names and contacts and reflect current Board appointments.

- Correct various typographical errors, update the Table of Contents, update the Correction Number Sheet.

NEXT STEPS

Staff plans to incorporate any comments the Board may have on this Report into the final proposed changes to Tariff 2-A. Then, Staff intends to prepare an agenda report recommending an ordinance to amend Tariff 2-A for the Board’s consideration at the two Board meetings in May 2021. If approved, the ordinance would become effective July 1, 2021.

Attachment A

LNG is an odorless natural gas, primarily comprised of methane, that has been cryogenically frozen into a liquid state. The liquid fuel is stored in vented, non-pressurized tanks for transport and use. The use of LNG fuel in container vessels may reduce GHG emissions by up to 12% as compared to vessels using low sulfur distillate, which helps vessel owners to meet current and upcoming IMO mandates until other, lower-GHG emissions fuel options become feasible and commercially available.

In 2015, the IMO adopted safety standards for vessel using LNG as fuel. Separately, the US Coast Guard (USCG) issued guidelines for handling of LNG fuel and for waterfront facilities conducting bunkering operations, in support of various regulations. In 2017, the USCG issued additional guidelines for safe LNG bunkering simultaneously with other Port operations. Port staff previously met with the USCG to discuss the applicable LNG regulations, who confirmed that USCG approval of various documents would be required for LNG bunkering. The USCG also would perform routine inspections in accordance with its standard practices.