

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

5/13/2021
Item No.: 6.2
CLF/msr



ORDINANCE AMENDING PORT OF OAKLAND ("PORT")
ORDINANCE NO. 2833 AMENDING TARIFF NUMBER 2-A TO:
(A) ESTABLISH CERTAIN NON-CONTAINERIZED CARGO
WHARFAGE RATES; (B) INCREASE RATES FOR SPACE
ASSIGNMENTS; (C) INCREASE RATES FOR THE PORT-OWNED
TRUCK PARKING/CONTAINER DEPOT FACILITIES; (D)
INCREASE RATES FOR EVENTS AT THE MIDDLE HARBOR
SHORELINE PARK AND CLARIFY CERTAIN CONDITIONS OF USE;
(E) ADD/REMOVE CRANES SCHEDULED TO BE PLACED
INTO/REMOVED FROM SERVICE, INCLUDING RATES FOR NEW
CRANES; AND (F) MAKE VARIOUS OTHER ADMINISTRATIVE
UPDATES, ALL EFFECTIVE JULY 1, 2021.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.2, dated May 13, 2021 (the "Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

SECTION 1. The Board hereby finds and determines that:

(a) This Ordinance is adopted pursuant to the authority under Article 7 of the Charter of the City of Oakland, including but not limited to Section 706(10) of the Charter, and the rates, dockage, rentals, tolls, wharfage, and charges are reasonable for the use of Port properties, appliances and facilities or to recover costs of services rendered; and

(b) The proposed amendments to Port Tariff No. 2-A were reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). Per Section 15378(b)(4) of the CEQA Guidelines, "creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project" are not considered a project. Therefore, the proposed action is not subject to CEQA.

SECTION 2. References in this ordinance to an Item Number, or to a Tariff Section number, mean the Item Number or the Tariff Section number, respectively, in Port of Oakland Tariff Number 2-A, adopted by Port Ordinance No. 2833, as amended. Underlined words and phrases indicate modified language to the portions of the Item Numbers referenced in this ordinance.

SECTION 3. The following pages, items, and sections shall be amended as set forth herein:

- A. Section VII: Wharfage, Non-Containerized Cargo is hereby revised and amended as set forth below and in the Agenda Report and Exhibit A thereto:
1. NEW Items 07280 and 07282 are hereby added to establish rates for wharfage for liquified natural gas bunkering in the amounts of 34 cents and 63 cents per applicable unit of measure; and
 2. NEW Item 07960 is hereby added to establish rates for wharfage for passengers in the amount of \$11 per passenger.
- B. Section X-B, Items 10155 and 10160 are hereby revised to increase Space Assignment rates by approximately five percent (5%) for each rate, subject to the following exceptions as set forth below and in the Agenda Report and Exhibit B thereto: (i) minimum Space Assignment charge for new Space Assignments will be set at \$500; (ii) Mobile Food Vendor assignments will increase to \$200 per month; (iii) for land that is "Paved, No Lighting and No Fencing" the rate shall increase to \$0.219 per square foot per month; and (iv) for land that is "Rocked, No Lighting and No Fencing" the rate shall increase to \$0.184 per square foot per month.
- C. Section X-C Item 10185 is hereby revised to increase the Port's Truck Parking/Container Depot rates by approximately thirteen percent (13%), as set forth in the Agenda Report and Exhibit C thereto.
- D. Section XI, Items 11215-11220 are hereby revised to increase the rates for use of the Middle Harbor Shoreline Park by approximately 8% for each rate, subject to the following exceptions and clarifications as set forth below and in the Agenda Report and Exhibit D thereto: (i) security deposits for special events shall be increased to three times the prior deposit amount; (ii) the fees will continue to increase annually as previously planned, except that such increase shall be automatic; and (iii) clarify the characteristics of special events used by the Port to determine applicable fees and conditions of use for the Middle Harbor Shoreline Park.
- E. Section IX, Items 09150-09163 are hereby revised to add new cranes that are anticipated to be placed into service at the OICT and Nutter Terminals, establishing rental rates twenty percent (20%) higher than the rates for the next-newest cranes on the terminals; add a note that certain cranes at the same terminals will be demolished and taken out of service; and make various editorial updates as set forth below in the Agenda Report and Exhibit F thereto.
- F. Sections I and II are hereby revised to make clarifications to various Tariff Items as set forth below in the Agenda Report and Exhibit E thereto, including (i) revising how the terms "maritime," "seaport," and "Port Area" are used; (ii) distinguishing between Toxic Materials and Hazardous Cargo; (iii) updating insurance requirements to match current Port practice; (iv) updating ballast water rules to defer to

responsible federal and state agencies; and (v) clarifying delinquency regarding recurring monthly charges.

G. Section X-A Items 10105-10130 and Section X-B Items 10135-10155 are hereby revised to update the Wharf Assignment and Space Assignment sections, respectively, as set forth in the Agenda Report and Exhibit B thereto, so that they are consistent regarding maintenance requirements and responsibilities, prohibitions on subletting and transfers; and eliminate outdated references to an application form.

H. Make miscellaneous other updates including Board appointments, staffing changes, and typographical errors among other minor edits to Port Tariff 2-A to ensure accuracy and consistency as set forth in the Agenda Report.

SECTION 4. This Ordinance shall take effect on July 1, 2021; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code §9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney