

0150-03656-0095

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE 06/16/21	COUNCIL FILE NO. 06-2035 09-0243
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED PERMANENT ORDER AMENDING PORT OF LOS ANGELES TARIFF NO. 4,
SECTION THREE, ITEM NO. 370, VESSEL TRAFFIC USER FEES**

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.



MAYOR

(Ana Guerrero for)

RHL:JCY:10210108t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: May 3, 2021

CAO File No. 0150-03656-0095
Council File No. 06-2035, 09-0243
Council District: 15

To: The Mayor

From: Richard H. Llewellyn, Jr., City Administrative Officer

Reference: Correspondence from the Harbor Department dated February 25, 2021; referred by the Mayor for report March 22, 2021

Subject: **PROPOSED PERMANENT ORDER AMENDING PORT OF LOS ANGELES
TARIFF NO. 4, SECTION THREE, ITEM NO. 370, VESSEL TRAFFIC SERVICE
USER FEES**

RECOMMENDATIONS

Approve Harbor Department (Port) Resolution No. 21-9765 authorizing the adoption of Permanent Order No. 21-7292 and a corresponding Ordinance to amend Port of Los Angeles Tariff No. 4, Section Three, Item No. 370, to update Vessel Traffic Service user fees; and, return the document to the Port for further processing, including Council consideration.

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 21-9765 authorizing the adoption of Permanent Order No. 21-7292 and a corresponding Ordinance to amend Port of Los Angeles (POLA) Tariff No. 4 Port Fees, Rules and Regulations (Tariff), Section Three, Item No. 370, to update Vessel Traffic Service (VTS) user fees. The proposed Tariff amendment will update VTS user fees on a three-year schedule, from April 1, 2021 through March 31, 2024, for an estimated average annual increase of four percent for local vessels and 10.5 percent for non-local vessels. The Marine Exchange of Southern California (MX) provides VTS services for POLA and the Port of Long Beach (POLB), which includes monitoring vessel traffic within and in approaches to both ports and communicating with mariners in these areas to ensure safe, secure, efficient, reliable, and environmentally sound maritime transportation. VTS user fees fund MX operations and are paid by users directly to MX, with no financial impact to the Port. The Tariff amendment will bring VTS user fees in line with rates at the POLB.

State of California (State) governmental codes mandate a VTS within ports and up to approximately 40 miles beyond the federal breakwater. VTS user fees, as required by State law, pay the costs of operating the VTS. MX operates the Los Angeles/Long Beach VTS in a cooperative effort with the State, United States Coast Guard, and the POLA/POLB. The Port reports that the VTS user fees

fund a primary percentage of MX's operations, and that the proposed fee increases are needed to fund anticipated increases to MX employee salary and benefit expenses, utilities, equipment maintenance agreements and repairs, insurance, communications, information technology, and cyber security. MX assesses VTS user fees on a monthly basis for local vessels such as tug and tow, ferries, commercial rescue and emergency vessels, and whale watch boats. For non-local entry vessels, MX assesses VTS user fees based upon a vessel's gross tons (GT) and length over all (LOA) upon arrival at the Port. The proposed Amendment increases monthly local vessel VTS user fees, on a one-time basis, an average of \$20 or 12.1 percent per local vessel. This averages to a four percent increase per year over the three-year term. Although VTS user fees are evaluated generally every five years, the local vessel fee has not increased since 2009 (C.F. 09-0243). The proposed Amendment also increases non-local, per call VTS user fee rates on an annual basis over the next three years by an average of \$41.48 or 10.5 percent per year for LOA rates and \$0.0004 or 10.4 percent per GT per year. The non-local VTS user fees were last adjusted in 2015 (C.F. 06-2035). The proposed Amendment also adjusts LOA categories so that vessels 335 meters and longer pay the highest rate, where previously the highest rate applied to vessels 340 meters and longer.

MX has provided vessel traffic services in the San Pedro Bay ports since the early 1900s and became a nonprofit 501(c)(6) organization in 1996. MX has operated the VTS in the ports since it became mandatory under federal and State law in 1994. The MX budget is approved annually by a 17-member Board of Directors and is audited annually by an outside accounting firm. MX reported in the Board meeting on February 4, 2021 that it also needed fee increases to offset revenue loss from sailing cancellations of local vessels and cruise ships due to the Covid-19 pandemic. At that meeting, the Board had considered a five-year rate increase schedule for non-local vessels, but instructed the Port and MX to return with the currently proposed three-year schedule to provide time for economy-based revenues to stabilize. VTS user fees are meant to be uniform within ports. The POLB Board of Harbor Commissioners approved the same three-year VTS user fee adjustments at its meeting on March 22, 2021.

A Temporary Order, authorized by the Board on February 18, 2021 and effective on April 1, 2021, authorized the same provisions as the proposed Tariff amendment, but is only effective for 90 days pending Council approval of the Permanent Order and corresponding Ordinance, pursuant to Charter Sections 653(a) and (b). The Port is a member of the California Association of Port Authorities (CAPA). The Port reports that the CAPA Committee on Tariffs and Practices has unanimously approved the proposed Tariff Amendment, a vote required for CAPA member tariff changes.

The Port anticipates that approval of the proposed Tariff amendment will not have a financial impact on the Port or the Harbor Revenue Fund. While the VTS rules, regulations, and rates are published in the Port Tariffs, the VTS user fees will continue to be invoiced by and paid directly to MX by each assessed vessel. The proposed Amendment is anticipated to generate \$10,361,000 in tariff revenue from POLA and POLB to MX over the next three fiscal years ending in 2024.

The City Attorney has approved the proposed Order and ordinance as to form and legality. In accordance with Charter Section 653, the Council must approve the ordinance to amend the Tariff

before it can become effective permanently. The Port reports that the approval of the proposed Order and ordinance and proposed action is an activity modifying a rate, fee, or charge for the use of existing municipal facilities and services involving negligible or no expansion of use. Therefore, the Port Director of Environmental Management has determined that the proposed action is categorically 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.

FISCAL IMPACT STATEMENT

The proposed Harbor Department (Port) Resolution No. 21-9765 authorizing the adoption of Permanent Order No. 21-7292 and a corresponding Ordinance to amend Port of Los Angeles (POLA) Tariff No. 4 Port Fees, Rules and Regulations, Section Three, Item No. 370 to update Vessel Traffic Service user fees is anticipated to generate \$10,361,000 in tariff revenue from POLA and the Port of Long Beach to the Marine Exchange of Southern California over the next three fiscal years ending in 2024. There is no impact on the Port, the Harbor Revenue Fund, or the City General Fund.

RHL:JCY:10210108