

**DATE: MAY 25, 2021**

**FROM: PORT PILOTS**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - APPROVE SECOND TEMPORARY ORDER AMENDING PORT OF LOS ANGELES TARIFF NO. 4, SECTION THREE, ITEM NO. 370 – “VESSEL TRAFFIC SERVICE USER FEES”**

**SUMMARY:**

Staff requests approval of a second temporary order amending Port of Los Angeles Tariff No. 4 (Tariff), Section Three, Item No. 370 – Vessel Traffic Service User Fees (VTSUF). The Marine Exchange of Southern California (MX) operates a Vessel Traffic Service (VTS) that monitors vessel traffic within and approaches to the Ports of Los Angeles and Long Beach (the Ports). The VTS provides mariners with timely, relevant, and accurate information for the purpose of safe, secure, efficient, reliable, and environmentally sound maritime transportation.

VTSUF are assessed on a monthly basis for local vessels such as tugs and tows, ferries, commercial rescue and emergency vessels, and whale watch boats. For non-local entry vessels, VTSUF are assessed based upon a vessel's gross tons (GT) and length over all (LOA) upon arrival at the Ports. Currently, monthly VTSUF on local vessels range from \$30 - \$355 per month. VTSUF on non-local entry vessels currently range from \$236 - \$500 per visit based upon LOA, and non-local entry vessels also pay an additional tonnage fee of \$0.0032 per GT per visit. Non-local entry vessels with an LOA of 340 meters or more are currently subject to the maximum LOA fee of \$500 per visit.

Effective April 1, 2021, the proposed amendment would increase the VTSUF range on local vessels on a one-time basis by anywhere from \$5 to \$40 to a proposed range of \$35 - \$395 per month.

For non-local entry vessels, the proposed amendment would apply an annual 10.5% increase to LOA and GT fees, effective each April 1 for three years. In addition, the maximum LOA fee would be applied to non-local entry vessels with an LOA of 335 meters or more. After the proposed three (10.5% each) increases are applied, by April 1, 2023, the LOA fee range would increase to \$318 - \$675 per visit (relative to the current \$236 - \$500 per visit). In addition, the GT fee in effect as of April 1, 2023, would be \$0.0043 (relative to the current \$0.0032 per GT). As VTSUF are paid directly to MX, there is no financial impact to the Harbor Department associated with this action. During calendar

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year 2023, the Marine Exchange will re-evaluate whether any additional fee increases would be necessary over the subsequent five-year period.

At the February 18, 2021, Board meeting, the Board approved a Temporary and Permanent Order amending Port of Los Angeles Tariff No. 4, Item No. 370. Changes in the Tariff require City Council approval. The City Council has not calendared and approved the Permanent Order and Ordinance. Therefore, a second Temporary Order is proposed to allow additional time for the Permanent Order to pass through the City Council approval process. This second Temporary Order, if approved, will expire 90 days after the day it is published or upon execution of the Permanent Order by the City Council, whichever occurs first.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(31) of the Los Angeles City CEQA Guidelines;
2. Approve the Amendment to the Port of Los Angeles Tariff No. 4, revising Section Three Pilotage, Item No. 370 – Vessel Traffic Service User Fees, subject to the California Association of Port Authorities’ review and approval, and authorize the Executive Director to work with California Association of Port Authorities to secure this approval or proceed to take independent action in accordance with the California Association of Port Authorities procedure;
3. Adopt Temporary Order No. \_\_\_\_\_ - to amend Section Three Pilotage, Item No. 370, Vessel Traffic Service User Fees in the Port of Los Angeles Tariff No. 4;
4. Authorize the Board Secretary to certify to the adoption of the Temporary Order by the Board of Harbor Commissioners and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect prior to adoption by Ordinance for a period not-to-exceed 90 days pursuant to City Charter Section 653(b); and
5. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background/Context: The VTS is a unique public-private partnership, among the MX, the United States Coast Guard (USCG), and the Ports as established by California state law.

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The VTS operates under the authority of California Government Code Section 8670.21, and Harbors and Navigation Code Section 445-449.5, to monitor vessel activity within the Ports and manage all commercial vessel traffic up to approximately 40 miles beyond the federal breakwater.

Previous Board Action: On January 1, 2009, pursuant to Board Resolution No. 08-6975, Tariff No. 4 was amended to increase the fee schedule related to VTSUF by approximately 7.5 percent for all vessel types.

On July 1, 2015, pursuant to Board Resolution No. 15-7178, Tariff No. 4 was amended to increase the VTSUF schedule related to non-local entry vessels by approximately \$39 to \$319 per ship visit. The average increase was \$146 per visit. The Tariff for local vessels was not raised in 2015. Local vessels are tugs and tows, ferries, commercial rescue and emergency vessels, and whale watch boats.

Effective April 1, 2021 through April 1, 2023, the proposed amendment (Transmittal 1) would increase VTSUF as summarized within the table below:

	Vessel Types	Details	2009 Tariff	2015 Tariff	2021-2023 Proposal
1	<b>Local Vessels</b>	Tugs, Tows & Support	\$215/month	No increase	\$240/month
		Ferries between the Ports of LA and LB and Catalina	\$355/month Jun/Jul/Aug & \$175/month rest of year	No increase	\$395/month Jun/Jul/Aug & \$195/month rest of year
		Vessels Engaged in Port Construction	\$215/month	No increase	\$240/month
		Commercial Rescue & Assist	\$30/month	No increase	\$35/month
		Whale Watching & Commercial Sport Fishing	\$59/month	No increase	\$65/month
2	<b>Entry Vessels</b>	2-Part Tariff	Vessel Entry Vessels are ships of all types and ocean-going barges arriving from other ports		
	Part 1	<b>Length Over All Fee (LOA)</b> 7 Length Categories >40m to >340m	2-part tariff based on LOA and GT. Results in a fair tariff for vessels of all types, from smallest barge or research ship to largest container ship, cruise ship, or tanker.	Current range is \$236 to \$500	New range will be \$318 to \$675 by April 2023.  2021 max. LOA drops to 335m
	Part 2	<b>Gross Registered Tons Fee (GT)</b>		\$0.0032 per GT	\$0.0043 per GT by April 2023

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The three annual 10.5% increases applied to the LOA and GT fees paid by non-local vessels would be applied as follows:

LOA	Current	Proposed		
		4/1/2021	4/1/2022	4/1/2023
0 – 150 meters	\$ 236	\$ 261	\$ 288	\$ 318
150 – 190 meters	\$ 260	\$ 287	\$ 317	\$ 350
190 – 230 meters	\$ 302	\$ 334	\$ 369	\$ 408
230 – 270 meters	\$ 352	\$ 389	\$ 430	\$ 475
270 – 310 meters	\$ 396	\$ 438	\$ 484	\$ 535
310 – 335 meters	\$ 445	\$ 492	\$ 544	\$ 601
335+ meters*	\$ 500	\$ 553	\$ 611	\$ 675
GT (per ton)	\$ 0.0032	\$ 0.0035	\$ 0.0039	\$ 0.0043

\* Note: Effective April 1, 2021 non-local vessels with an LOA of 335 meters will pay the highest LOA fee (relative to 340 meters previously).

The proposed fee increases are required at this time in order to fund anticipated increases to employee salary and benefit/health care expenses, business continuity and resumption backup, utilities, equipment maintenance agreements and repairs, insurance, communications, information technology, and cyber security. Currently, the projected operating cost of the MX for the next 3 Fiscal Years (FYs) (2022-2024) is \$10,855,000 and VTSUF revenues under the existing rate structure are anticipated to be only \$9,073,000. The proposed amendment VTSUF is anticipated to result in \$10,361,000 in tariff revenue from the Ports, which combined with other revenue sources at the MX, will result in positive cash flow for the period 2021 to 2024.

VTSUF are meant to be uniform within the Ports. The MX Board of Directors has communicated their proposal to the Pacific Merchant Shipping Association (PMSA) and to other industry representatives such as cruise ships, tankers, and local vessels. The Port of Long Beach independently passed a tariff amendment regarding VTSUF on March 8, 2021, and was effective April 1, 2021.

Changes to Tariff No. 4 (Transmittal 2) require the approvals of the Board and City Council. The proposed Temporary Order (Transmittal 3) is required to keep the proposed tariff rules and regulations in place until Permanent Order and Ordinance are approved by the City Council.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of a Temporary Order to amend Port Tariff No. 4, Section Three, Item No. 370, to increase the VTSUF, which 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 Director of Environmental Management has

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determined that the proposed action is categorically exempt from the requirements of CEQA in accordance with Article III Class 1(31) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

Approval of the proposed amendment to the Tariff is not expected to have a financial impact on the Harbor Department. While the VTS rules, regulations, and rates are published in the Ports Tariffs, the VTSUF will continue to be invoiced by, and paid directly to, the MX by the vessel so assessed. The MX has its own financial system and processes that are completely independent of the Harbor Department. The Budget of the MX is approved by its 17-member Board of Directors annually in June. The MX has an annual audit performed every August by an outside accounting firm. The MX closes its financial books monthly, which are submitted to and reviewed by the MX Board President, Treasurer, and the outside accounting firm. MX financial reports are also reviewed by the MX Finance Committee and full Board of Directors 4 times per year.

**CITY ATTORNEY:**

The Office of the City Attorney has reviewed and approved the proposed Order and Ordinance as to form and legality.

**TRANSMITTALS:**

1. Vessel Traffic User Fees
2. Tariff No. 4
3. Temporary Order

FIS Approval: *MB*  
CA Approval: *JS*



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