

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE 2782

ORDINANCE AMENDING SAN DIEGO UNIFIED PORT DISTRICT, PORT OF SAN DIEGO TARIFF NO. 1-G, RATES AND CHARGES, TO INCREASE CERTAIN RATES AND CHARGES AND UPDATE LANGUAGE

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, Section 21 of the Port Act grants the Board of Port Commissioners (Board) authority to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, District staff conducts an annual review of the District's Port of San Diego (Port) Tariff No. 1-G, which governs the rates, charges, rules and regulations applicable for all maritime-related commercial activity within the Port's jurisdiction; and

WHEREAS, the Board conducted a public hearing regarding the recommended rate increases and other amendments on September 16, 2014; and

WHEREAS, the following recommended rate increases and minor amendments would maintain a rate structure that is competitive with other California ports:

- a one and eight-tenths of a percent (1.8%) increase in General items
- a one and eight-tenths of a percent (1.8%) increase in Dockage items
- a one and eight-tenths of a percent (1.8%) increase in Wharfage for all other commodities
- a one and eight-tenths of a percent (1.8%) increase in Wharf Demurrage, Wharf Storage and Space Occupancy items
- a one and eight-tenths of a percent (1.8%) increase in Miscellaneous items
- a rate increase above the 1.8% GRI for items in General, Wharfage and Miscellaneous

- include new items in Definition of Technical Terms, General, and Wharf Demurrage, Wharf Storage and Space Occupancy
- language and modifications for items in Vessels, Commercial Fishing Vessels and General
- language and other language modifications

NOW, THEREFORE, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

Tariff No. 1-G, posted on the website for the San Diego Unified Port District at www.portofsandiego.org (Organization No. 011576 Tariff No. 1-G), is hereby amended by adopting of the following:

Section 1. A one and eight-tenths of a percent (1.8%) increase in General for Cargo Handling Permit Fee - Item No. 0515, Vessel Repair Permit Fee - Item No. 0520 and Hazardous and Dangerous Cargo Permit Fee - Item No. 0522.

Section 2. A one and eight-tenths of a percent (1.8%) increase in Dockage Charge for Transient Vessels - Item No. 0572(A) and Rates for Full Dockage - Item No. 0575(A).

Section 3. A one and eight-tenths of a percent (1.8%) increase in Wharfage for all other commodities, including Passenger Fees - Item No. 0647 and Hawaiian Trade - Item No. 0666(A).

Section 4. A one and eight-tenths of a percent (1.8%) increase in Wharf Demurrage Rates - Item No. 0705(A), Wharf Storage Rates - Item No. 0720(A) and Per Container Wharf Storage Rates - Item No. 0725, Space Occupancy Rates - Item No. 0735(A) and Temporary Office Occupancy - Item No. 0736, and Temporary Area Assignments - Item No. 0737(A).

Section 5. A one and eight-tenths of a percent (1.8%) increase in Miscellaneous for Mobile Harbor Crane - Item No. 0738 (I), Electrical Service for Refrigerated Containers - Item No. 0747(A), Redelivery of Merchandise - Item No. 0750(A) and Environmental Surcharge - Dry Bulk - Item No. 0758 .

Section 6. An increase in minimum charges above the 1.8 % GRI for the following:

- Minimum Charge - Item No. 0510 from \$32.55 to \$50.00
- Petroleum Products - Item No. 0650 from \$31.93 to \$50.00
- Fresh Water Service Rates - Item No. 0740(C) from \$33.53 to \$50.00

- Electrical Service Rates - Item No. 0745 from \$33.53 to \$50.00
- Electrical Service for Shore Power - Item No. 0748 from \$33.53 to \$50.00

Section 7. Include a new items and language for the following:

- Item No. 0161 - Import Merchandise
"Import Merchandise" is a shipment of goods received from a foreign country.
- Item No. 0186 - Export Merchandise
"Export Merchandise" is a shipment of goods to a foreign country.
- Item No. 0247 - Rail Demurrage
"Rail Demurrage" is the charge, assessed by rail providers, for expenses incurred when rail cars are detained on Port terminal facilities beyond a specified period of time allowed by rail provider.
- Item No. 0540 - Indemnity and Hold Harmless
User acknowledges and agrees to defend, indemnify and hold harmless the District and its officials, officers, representatives, agents, and employees (collectively "Indemnitees") from any litigation, claim, action, proceeding, losses, damage, cost, expense (including, without limitation, all attorneys' fees and consultant/expert fees), award, fine, penalty or judgment arising out of, resulting from, or in connection with the review, analysis or approval(s) related to any activities taken thereunder except for litigation, claims, actions, or proceedings that result from the District's sole negligence or willful misconduct. The District may, in its sole and absolute discretion and in good faith, participate in the defense of any litigation, claims, actions, and proceedings and the User shall reimburse District for said defense, including, but not limited to reimbursement for outside attorneys' and experts' fees and other costs, which the District may choose in its absolute and sole discretion. The District's participation shall not relieve the User of any of its obligations in this Tariff. The District shall promptly notify the User of its receipt of any litigation, claims or actions. This Tariff and the other obligations of User under this Tariff are independent of, and in addition to, the obligations of User under any existing lease(s), Tidelands Use and Occupancy Permit(s), or other contractual agreement(s) with the District and are binding upon User, its agents, representatives, successors and assigns.
- Item No. 0707 - Rail Demurrage or Detention
Parties responsible for ordering and/or scheduling railcars shall be responsible for the payment of rail demurrage as charged by rail providers which is caused by or arises out of, directly or indirectly, the ordering and/or scheduling of railcars, and such parties will indemnify

and hold harmless the Port for any rail demurrage and related costs and expenses, including attorney's fees and court costs, caused by or arising out of such parties' ordering and/or scheduling of railcars.

The Port must be notified by parties responsible for ordering and/or scheduling railcars 24-hours in advance prior to receiving into or moving railcars out of the terminals.

Section 8. Amend the following items as indicated:

- Item No. 0390(C) - Berthing Arrangements
...for advance required notice from twenty-four (24) hours to seventy-two (72) hours.
- Item No. 0450 - Berthing Assignments
...for advance required notice from twenty-four (24) hours to seventy-two (72) hours.
- Item No. 0535 - Credit Rule
...for delinquency payments period from thirty (30) days to forty-five (45) days and minimum delinquent charge from \$10.50 to \$11.00.

Section 9. Minor amendments to Tariff language and other minor modifications are made.

Section 10. This ordinance shall take effect after posting said revisions on the above-referenced website; provided, however, this ordinance shall not take effect prior to 31 days from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL



By: ~~Assistant~~/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 16th day of September, 2014, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Moore, Nelson, and Valderrama

NAYS: None.

EXCUSED: None.

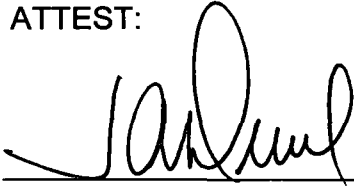
ABSENT: None.

ABSTAIN: None.



Robert E. Nelson, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk



(Seal)