

PORT COMMISSION MEETING: MAY 4, 2021

DATE: 4.29.2021

TO: PORT COMMISSION

CC: JIM RUDELLAT, HARBOR MASTER

FROM: JODY WEAVER, INTERIM CITY MANAGER

SUBJECT: **CONSIDER AMENDMENT TO CURRENT AND STANDARD LEASE DOCUMENT OF THE SECTION ENTITLED DELINQUENT PAYMENTS.**

At present we have 4 tenants that pay Monthly Tariffs: Helena, Equalizer, Prestige and Miller's Seafood. All have had difficulty in submitting their tariff payments on or before the 10th of each month. Recently Helena has established a procedure specifically for and unique to the City of Port Lavaca so they are generally able to get the payment in by the 10th.

Section 5.04 Delinquent Payments currently reads as follows:

All rent and other payments required of Tenant hereunder which are not paid within ten (10) days following receipt of written notice from City shall bear interest at the maximum rate allowed by law (or, if there is no maximum rate, at ten percent (10%) per annum) from the date due until the date paid. In no event, however, shall the charges permitted under this Section or elsewhere in this Lease, to the extent any or all of the same are considered to be interest under applicable law, exceed the maximum rate of interest allowable under applicable law."

As you are aware, the City is no longer sending out a monthly written notice, as suggested in the current lease language. The Rent is a consistent monthly amount that is established in the lease document and amended by written notice, so there is no need for the City to send an invoice each month. Other than the Dockage Tariff, which is based upon a fixed linear footage of dock length established in the lease, the tariffs payments change each month, depending upon the number of sacks/tons/barrels/days/days etc. as applicable for each tariff.

To provide adequate time for our tenants to collect and process the information needed to determine and pay the tariff dollars owed, I am recommending the following amendment be made to the standard lease document. This amendment makes it clear that the City will not be sending a monthly invoice, that the rent and dock tariff is due on the 1st, and the other tariff charges will be due on the 25th. In addition, specifically for the oyster tariffs, the tenant must submit with their payment, a copy of the Texas Oyster Sales Fee Report that is due to the State Comptroller's office by the 20th of the month, or the following Monday if the 20th lands on a weekend. In this way, we have verification that the payment being made is based upon the same information being provided to the State of Texas.

This proposed revision is being made in response to conversations I have had with our 4 tenants and listening to their concerns.

PROPOSED REVISED Section 5.04 Delinquent Payments

"The City of Port Lavaca is under no obligation to send an invoice or monthly Notice for Rent or Tariffs due. Rent and any Dock tariffs, which are established in the lease for a fixed linear footage of dock space, are due on the 1st of each month. All other tariffs and/or other payments required of Tenant are due by the 25th day of the month following the month when the charges are incurred. All payments for Oysters shall be accompanied by a copy of the applicable Texas Oyster Sales Fee Report the Tenant submitted to the Texas State Comptroller. All Rent and other payments required of Tenant hereunder which are not paid by the dates cited above shall bear interest at the maximum rate allowed by law (or, if there is no maximum rate, at ten percent (10%) per annum) from the date due until the date paid. In no event, however, shall the charges permitted under this Section or elsewhere in this Lease, to the extent any or all of the same are considered to be interest under applicable law, exceed the maximum rate of interest allowable under applicable law."

b.



Texas Oyster Sales Fee Report

You have certain rights under Chapters 552 and 559, Government Code, to review, request and correct information we have on file about you. Contact us at the address or phone numbers listed on this form.

a. T Code 80100

c. Taxpayer number
 1-74-2484648-7

d. Filing period
MONTH ENDING 03/31/2021

e. 2103

f. Due date
04/20/2021

g. Name and mailing address (Make any necessary name or address changes below.)

MILLER SEAFOOD CO., INC.
1102 BROADWAY ST
PORT LAVACA TX 77979-2716

IMPORTANT

Black out this box if your mailing address has changed. Show changes by the preprinted information. 1.

If you are no longer in business or your business name and/or location has changed, refer to the Business Changes instructions on the back of this form.

h. i.

REMINDER

Even if you do not handle or accept oysters from any harvest boat(s) in a specific month, you must still file a report with \$0.00 due.

	COLUMN A Total pounds handled WHOLE NUMBERS ONLY	COLUMN B Number of barrels (Column A ÷ 300) ROUNDED TO 2 DECIMAL PLACES	COLUMN C Number of containers over 110 lbs. WHOLE NUMBERS ONLY
Location name and address MILLER'S SEAFOOD 905 S PINE ST SEADRIFT TX 77983 Outlet number <input checked="" type="checkbox"/> 00031 Certificate number TX0000107SS	483300	1611.00	<input type="checkbox"/>
Location name and address MILLER SEAFOOD CO INC 515 FULTON ST PORT LAVACA TX 77979-2723 Outlet number <input checked="" type="checkbox"/> 00032 Certificate number TX0000150SS	285500	957.00	<input type="checkbox"/>
Location name and address MILLER'S SEAFOOD CO INC 1102 BROADWAY ST PORT LAVACA TX 77979-2716 Outlet number <input checked="" type="checkbox"/> 00034 Certificate number TX0000134SP	0	.	<input type="checkbox"/>
Location name and address Outlet number <input type="checkbox"/> Certificate number			<input type="checkbox"/>

j. 80180

- Total number of barrels (Column B total from ALL locations) (Rounded to 2 decimal places) ----- 1. 2562.00
- Fee amount due (Multiply the amount in Item 1 x \$1.00) ----- 2. 2562.00
- Total number of containers over 110 Lbs. (Column C total from ALL locations) (WHOLE NUMBERS ONLY) ----- 3. 00
- Overweight penalty due (Multiply the amount in Item 3 x \$5.00) ----- 4. 00
- Total fee and overweight penalty due (Item 2 plus Item 4) ----- 5.

28-100 (Rev. 11-18/9)

*** DO NOT DETACH ***

- Late penalty (See instructions on back) ----- 6. 0
- Interest due (See instructions on back) ----- 7. 0
- TOTAL AMOUNT DUE AND PAYABLE (Item 5 plus Item 6 and Item 7) ----- 8. 2562.00

Taxpayer name
MILLER SEAFOOD CO., INC.

k. l.

T Code Taxpayer number Period

80020 17424846487 2103

Make the amount in Item 8 payable to State Comptroller. Our mailing address is P.O. Box 149361, Austin, TX 78714-9361.

I declare that the information in this document and all attachments is true and correct to the best of my knowledge and belief.

sign here Authorized agent
Preparer's name (Please print)
CURTIS O MILLER
Daytime phone (Area code & number) 361-552-1483 Date 4/16/21

If you have any questions regarding Oyster Sales Fee, contact the Texas State Comptroller's field office in your area or call 1-800-252-5555 or 512-463-4600.