WEST SIDE CALHOUN COUNTY NAVIGATION DISTRICT

TARIFF CIRCULAR NO. 1

RATES, CHARGES, RULES & REGULATIONS GOVERNING ACTIVITY AND USE OF THE

CHANNEL TO VICTORIA, LONG MOTT CHANNEL AND PORT OF WEST CALHOUN HARBOR FACILITIES

Issued by:
Board of Navigation and Canal Commissioners
West Side Calhoun County Navigation District
402 South Main St.
P.O. Box 189
Seadrift, TX 77983

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SECTION 1 - GENERAL INFORMATION, RULES & REGULATIONS

APPLICATION ITEM

DESCRIPTION & JURISDICTION OF NAVIGATION COMMISSION

1

Mariners are to consult appropriate authorities and information sources when determining constraints upon navigation in and around the Channel to Victoria, the Long Mott Channel and Harbor, and the WSCCND Seadrift Harbor and not rely upon information contained herein for the purpose of safe navigation.

The West Side Calhoun County Navigation District is administered by three (3) duly appointed Commissioners having jurisdiction over and control usage of all District property, and that portion of the Channel to Victoria, and associated navigable waterways, lying within Calhoun County, Texas.

DEFINITIONS 5

The following definitions will apply to this Tariff and all other tariffs which may be issued by the West Side Calhoun County Navigation District:

- (1) AGENT: The party or entity responsible for a request for services or the Owner / Operator of a tow or its equipment upon waters of District.
- (2) BERTH: The water area at the edge of a wharf, including mooring facilities, used by a vessel while docked or otherwise secured.
- (3) CONTRACTOR or SUPPLIER: A third party entity engaged by the District to provide specific services on an exclusive basis to tenants or users of District facilities or assets which require specified District operating services as permitted under individually issued Operating or Usage Permits.
- (4) CARGO: The measured product moved by any conveyance on or off the properties of the District for which charges will be assessed based on weight, volume, or head count, as applicable.
- (5) DAY: A period of 24 consecutive hours or fractional part thereof.
- (6) DISTRICT: The West Side Calhoun County Navigation District.
- (7) DOCKAGE: The charge assessed against a vessel for berthing at a wharf, pier, bulkhead or for mooring to a vessel so berthed.
- (8) FACILITIES: Any wharf, dock, berth, fleet, shed, warehouse, improved open area, pipeline, road, equipment, appliance, land or any structure of any kind which is within the jurisdiction of the District and is owned or leased by the District.
- (9) FLEET: Any area(s) determined by the District to be used for lay berth or services to vessels not engaged in cargo operation.
- (10) FREE TIME: The specified period during which cargo may occupy space assigned to it on District property free of wharf demurrage or terminal storage immediately prior to it loading or subsequent to the discharge of such cargo on or off the vessel.
- (11) HANDLING: The specific service of physically moving cargo between points of rest and any place on the properties of the Authority
- (12) LINER SERVICE: Vessels making regular scheduled calls for the receipt and delivery of cargo and/or passengers.
- (13) LOADING & UNLOADING: The service of loading or unloading cargo between any place on the facilities and rail cars, barges, lighters or trucks or any other conveyance to or from the facilities.

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SECTION 1 - GENERAL INFORMATION, RULES & REGULATIONS

APPLICATION ITEM

- (14) OPERATING or USAGE PERMIT: A permit document issued by the District to a tenant or user which describes a provided service and the conditions and requirements for use of the service.
- (15) POINT OF REST: The area of any facility of the District which is assigned for the receipt of inbound cargo and for the delivery of outbound cargo to or from vessels, consignees, shippers or other transportation conveyance.
- (16) STORAGE: A service provided for the use of facilities for inbound or outbound cargo, from any conveyance, after the expiration of free time.
- (17) TARIFF: The rates, charges, rules and regulations governing activity, services and use of the facilities or waterways under the jurisdiction of the District as set forth in this agreement and any amendments thereto.
- (18) TON: A unit of weight of 2,000 pounds.
- (19) TRANSLOAD: The service of transfer of cargo between rail car, vessel or other transport conveyance without an intermediate point of rest.
- (20) USAGE: The use of District facilities by any rail carrier, lighter, operator, trucker, shipper, consignee, their agents, servants and/or employees when they perform their own Handling, Loading or Unloading; or the use of any facilities for any gainful purpose for which a charge is not otherwise specified.
- (21) USER: Any rail carrier, lighter, operator, trucker, tenant, shipper or consignee using the facilities of the District.
- (22) VESSEL: Includes within its meaning every description of watercraft whether self-propelled or non self-propelled, used or capable of being used, as a means of transportation on water and shall include in its meaning the owner thereof.
- (23) WHARF: Any wharf, pier, landing, quay or other stationary structure to which may be utilized in the transit or handling of cargo or passengers and shall include other District facilities or areas along side of which vessels may lie or which are suitable for and are used in the loading, unloading, distribution, assembling or handling of cargo.
- (24) WHARFAGE: A charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto or under wharves or between vessels (to or from barge, lighter or water) when berthed at wharf or when moored in a slip adjacent to wharf. Wharfage is solely the charge for use of wharf and does not include charges for any other service.
- (25) WHARF DEMURRAGE: The charge assessed against cargo remaining in or on facilities of the District after the expiration of free time unless alternative arrangements have been made for storage.

APPLICATION OF TARIFF

10

The rates, rules and regulations published in this Tariff apply equally to all cargo, users of the waterway, tenants and facilities of the West Side Calhoun County Navigation District. The use of District facilities, to include the waterways under District jurisdiction, constitutes an acceptance by the User of all charges, rules and regulations published. The User agrees to pay all charges and be governed by all rules contained herein.

Amendments may be issued to address needed changes or revisions to the Tariff. The Tariff is subject to change without notice at the discretion of the District's Commission. The District's Commission reserves the right to determine the charge or interpret the Tariff should it not specifically address the issues at hand so long as it is applied equally to similarly situated users.

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SECTION 1 - GENERAL INFORMATION, RULES & REGULATIONS

APPLICATION ITEM

LIMITATION OF LIABILITY

15

Except for liability under Texas law, if any, for damage caused by its negligence, the District shall not be liable for any loss or damage to any cargo handled over or through its facilities, nor shall it be liable for any delay, loss or damage resulting from strikes, tumult, channel blockages or acts of God.

The District is not a common carrier and does not accept care, custody or control of any cargo or other property while on its wharves, docks, buildings or other facilities managed or controlled by the District.

The District has jurisdiction over all properties whatsoever within the District and shall make and enforce such rules and regulations as may be necessary to promote and facilitate traffic, business and to secure safety and equal convenience to all authorized users thereof.

DISTRICT HELD HARMLESS

20

All Users agree to indemnify and save harmless the District, its' Commissioners, agents, employees, contractors and assigns from and against all losses, claims, demands and suits for damages, including death and personal injury, and including court costs and attorney's fees, incident to or resulting from their operations on the property of the District and the use of its waterways and facilities.

DAMAGE TO NAVIGATION DISTRICT PROPERTY

25

All vessels, owners, agents, tenants and users of District properties, waterways and/or facilities shall be responsible for all damage to property and facilities of the District resulting from their use. Any such damage shall be repaired and billed against the user responsible, whether or not such damage is caused by negligence or use by operation and/or conduct of third parties participating with them or on their behalf. The expense of replacement or repair will be billed against the responsible party for such damages at cost plus 20%.

For facilities utilized under exclusive or preferential agreements, damage and repair requirements may, as agreed by District, be governed by said agreements.

SIGNS 35

Erection or painting of signs on District property, easements, or structures is prohibited. Signs may be erected only upon written consent of the Commission subsequent submittal of design, dimension, proposed location, materials of construction, fastenings and method of erection. The District reserves the right to make modification to the foregoing submittal and to remove any erected sign for lack of maintenance subsequent a written notice and 30-day cure period. Should removal be required, removal will be at cost plus 20%.

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SECTION 1 - GENERAL INFORMATION, RULES & REGULATIONS

APPLICATION ITEM

DEMURRAGE OR DETENTION

40

Except when caused by its own negligence, the District will not be responsible for any demurrage or detention on railcars, vessels or trucks.

HARBOR MODIFICATIONS

45

The District maintains sole jurisdiction over the waterways, lying within its geographical jurisdiction, and any modifications or structures within said waterways. No piles shall be driven nor shall any platform be erected without written permission from the District. Furthermore, no modifications or alterations to any bank or waterway is permitted without obtaining written authorization; this includes, but is not limited to, any of the following: filling in, construction, repair, dredging, removal or demolition of any kind made to any waterfront or channel.

INSURANCE 50

The charges provided herein do not include any expense for insurance covering owner's interest in the property, nor will insurance be affected by the District under its policies.

ACCESS TO RECORD

55

Vessels, their owners, agents and masters, and all other users of the facilities shall be required to permit access to manifests of cargo, railroad documents and all other documents for the purpose of audit for ascertaining the correctness of reports filed; or securing necessary data to permit correct estimate of charges.

PAYMENT OF INVOICES & CHARGES

60

All wharfage and dock usage charges incurred by a shipper in the loading and unloading of commodities at the District's facilities are due and payable to the District within fifteen (15) days after the end of the calendar month in which such wharfage or dock usage charges were incurred. All bills for charges other than for wharfage or for the use of the District's facilities are due upon presentation. Failure to pay any charges incurred by a shipper when due shall place the name of the vessel, its owners and agents, and the shipper upon a delinquent list at which time the use of the District's facilities will be denied. Any charges remaining unpaid 30 days past the date on which they are due shall be subject to an interest charge of 12% per annum calculated on a daily basis for each day over 30 days until paid in full. Prompt written response is required for any charges in dispute or else interest charges will apply.

Presentation of bills to owners and agents of vessels or to stevedores is done as a matter of accommodation and convenience, and shall not constitute a waiver of the lien for charges furnished the vessel for which the maritime law provides a lien.

The District reserves the right to estimate and collect in advance all charges which may accrue against vessels, their owners and agents, or against cargo loaded or discharged by such vessels or from other users of the facilities of the District whose credit has not been properly established or does not remain in good standing with the

SECTION 1 - GENERAL INFORMATION, RULES & REGULATIONS

APPLICATION ITEM

District. Use of facilities may be denied until such advance payment or deposits are made.

The District reserves the right to apply any payment received against the oldest bills rendered against vessels, their owners and agents, or other users of facilities.

Vessels, their owners and agents, by the loading of cargo from wharves or the discharging of cargo thereon, agree to pay all penalty charges then accrued or which may accrue on such cargo, as well as any charges which may accrue from the removal of such cargo to another part of the wharves for storage elsewhere. These charges shall be assessed against the vessels, their owners and agents responsible for the cargo and making use of a berth as permitted by the District.

Vessels, their owners and agents shall make collection of penalty charges before releasing merchandise. The amount of accrued penalty charges may be obtained from the District.

FIRE PROTECTION 65

Smoking and the use of open lights or fires in or around facilities of the District or on any vessel or vehicle within the jurisdiction of the District is strictly prohibited.

Handling of explosives is strictly prohibited without the prior written consent of the District.

The storage, keeping or use of acid, gasoline, distillates or other liquid petroleum product, except lubrication oil, on properties of the District is strictly prohibited. The District may authorize acceptable designated areas at the request of a tenant so long as tenant agrees to conform to any requirements of the District regarding the material, its use or security of the designated area.

No person may obstruct or interfere with free and easy access in case of fire to any properties or facilities within the jurisdiction of the District.

USE OF DISTRICT OWNED DREDGE DISPOSAL PLACEMENT AREAS

70

All non-District use of District owned Dredge Disposal Placement Areas (DDPA) shall be available by permit from the District, on a case by case basis.

User is responsible for ensuring containment berm is in condition to receive dredge material. User must comply with all State and Federal laws and regulations concerning dredge material and material placement.

User will pay a fee to the District equal to current prevailing rate charged by the U.S. Army Corps of Engineers for use of Federally owned and managed placement areas within the USACE Galveston District.

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SECTION 2 - REGULATIONS GOVERNING USE OF WATERWAY

APPLICATION ITEM

BERTH & FLEET ASSIGNMENTS

200

Wharf and dock assignments may be governed by tenant agreements granting preferential use or non-exclusive use. Any preferential use shall be monitored and controlled by the District. Preferential use will not preclude the District from making berth assignments when it deems the facility is underutilized and such assignment will not negatively impact the tenant's operation.

All non-exclusive use wharves and docks are multi-user facilities. Certain interests may have a preferential berth at a facility that allows them to conduct operations upon arrival. Any wharf or dock not so contractually designated is usually assigned by the District on a first come first served basis subject to the terms, conditions and charges contained herein. Should any conflict or interpretation be required, the District will determine the order of assignment.

To expedite the handling of vessels and to avoid congestion, the District may order vessels already in berth to work continuously at their expense. A vessel refusing to work may be ordered to vacate the berth.

HARBOR & SAFETY REQUIREMENTS

205

All users are responsible for compliance of their vessels to rules which are established to protect people, assets and the environment of the District, tenants, property owners and other vessels.

- (1) SPEED: As stipulated by the US Coast Guard in CFR Title 33, Part 162.75 "Speeding in narrow sections is prohibited. Official signs indicating limited speeds shall be obeyed. Vessels shall reduce speed sufficiently to prevent damage when passing other vessels or structures in or along the waterway."
 - The maximum speed for all vessels shall be in accordance with CFR Title 33, Parts 83.06 and 164.11. Notwithstanding, vessels shall operate at slow bell or slower entering, while present in, and upon exiting the turning basin, and shall not exceed three miles per hour while passing any wharf, dock, bridge abutment or moored vessel
- (2) AUTOMATIC IDENTIFICATION SYSTEM (AIS): Vessels equipped with AIS, as required by CFR Title 33, Part 164.46, must have the system active while in the jurisdiction of the District, unless the District is notified otherwise in advance.
- (3) MOORINGS: All vessels, when not underway, shall at all times be properly made fast using good and sufficient moorings considering the practice of good seamanship, cargo operation and weather considerations present and contemplated.
- (4) FIRE ALARM: In the event of a fire on board any vessel not underway, such vessel may sound five prolonged blasts of the whistle or siren as an alarm indicating fire on board or at a dock to which it is moored. Such signal may be repeated to attract attention. The signal is not a substitute for, but may be used in addition to, other means of reporting the fire.
- (5) ACCIDENT & COLLISION REPORTING: Any fire, accident, pollution or other casualty of any kind whatsoever, occurring within the jurisdiction of the Authority must be reported. Reporting requirements include incidents of groundings or striking of stationary objects. Reports are to be made in writing by electronic, facsimile transmission or other written form within twenty-four hours of the incident to the Chairman or Harbor Master of the District.

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SECTION 2 - REGULATIONS GOVERNING USE OF WATERWAY

APPLICATION ITEM

- (6) POLLUTION, OIL & REFUSE: All vessel owners, agent and operators shall comply with all federal, state or local regulations pertaining to placing or discharging into District waters any sewage, garbage, fuels, contaminants or refuse of any kind covered by such laws. Vessels discharging oil from bilge or tanks into District waters will be reported to the US Coast Guard and other appropriate authority for prosecution under appropriate federal and state laws or regulations.
 - Throwing of any rubbish or contaminant into District waters is strictly prohibited. Rubbish, garbage, dunnage or other general waste material shall be disposed of only in containers designated for this use and supplied by the vessel owner, agent or operator. Placing of any hazardous material or pollutant into such containers is prohibited. Vessels shall retain aboard any rubbish which cannot be properly placed in designated containers.
- (7) RULES OF THE ROAD: All vessels shall comply with the applicable "Rules of the Road" and nothing herein is intended to supersede the regulations pertaining to safe navigation.
- (8) BUNKERING OF VESSELS: Bunkering of vessels by tank truck will be permitted at any open dry cargo dock which has been designated to permit such activity. No bunkering shall take place while cargo operations are being performed simultaneously at the same berth. All preventive actions, including a contingent spill plan, for a safe and efficient fueling operation must be established between the delivery carrier and vessel before any transfer commences.
- (9) VESSEL REPAIRS: No vessel repairs will be made to vessels involving, welding, burning or other fire risk activity without the issuing of an appropriate hot work permit issued by the USCG and advisement to the District. Vessel repairs will be permitted at District open berths under the condition that the vessel will not be inoperable during any cargo operation and can be underway upon one hour notice at all other times. The use of any dockside equipment, machinery or idle periods impacting the one hour notice period requires notification and authorization from the District.
- (10) REMOVAL OF SUNKEN VESSELS: It shall be the responsibility of the vessel owner to salvage and/or adequately remove any vessel which may sink in the District's jurisdiction. Should a vessel sink while moored or working at facilities owned by the District but under an exclusive use agreement to a second party, the second party shall be responsible for its salvage and/or adequate removal in the event the owner fails to act. Vessel owner shall salvage and/or remove said vessel within 48 hours after District requests same. If in the discretion of the District the vessel constitutes a hazard to navigation or impedes operation of the waterway or facilities of the District, arrangements may be permitted for its immediate removal by the District at vessel owner's risk and expense. Should the sinking impede operations or the responsible party fail to act, additional penalties of up to \$1,000 per Day may be assessed.

SECTION 2 - REGULATIONS GOVERNING USE OF WATERWAY

APPLICATION ITEM

FLEETING/MOORING

215

The District seeks to promote orderly and safe navigation of the Channel to Victoria, and all waterways within its jurisdiction. For the safety of all users, fleeting or mooring along the banks of the Long Mott Channel or any portion of the Channel to Victoria which lies within Calhoun County is prohibited. Any violation of this prohibition shall result in a fine of not less than \$500 per day.

The fleeting of barges or vessels at any District facility or within any waterway within the District's geographical jurisdiction, including, without limitation, any docks, moorings, pilings, or other facilities located on the Long Mott Channel or the Port of West Calhoun harbor shall incur the following charges per barge or vessel:

Regulation Sized Barges (10,000 barrel capacity)	\$100.00/day
Over-Sized Barges (in excess of 10,000 barrel capacity)	\$125.00/day
All other vessels	\$125.00/day

DOCKAGE

220

Dockage for all self-propelled and non self-propelled vessels shall be based on Length Overall (LOA) in feet per Day.

74 ft. or less, per day	\$ 50.00
75 ft. to 100 ft., per day	\$100.00
101ft. to 200 ft., per day	\$125.00
201ft. to 300ft., per day	\$200.00

Dockage for special event purposes or for government watercraft may be waived by order of the District.

BUNKER FEE, TANK TRUCK TO VESSEL

230

Bunkers may be delivered by tank truck with prior notification to the District. A charge of \$50.00 per truck is assessed against the vessel for transfer of fuel at District facilities.

STATEMENT OF CARGO

235

All vessels, their owners and agents using facilities within the jurisdiction of the District shall provide the District with a certified statement of cargo, which must be properly amended to include all changes or supplements thereto, covering all cargo loaded or unloaded. Such statement of cargo shall be reported on forms and in the manner prescribed by the District.

The statement of cargo shall be provided within seven (7) days of the arrival or within seven (7) days of the departure of any vessel.

Failure to provide the statement of cargo within the time specified shall constitute cause for suspension of vessel privileges until such failure is remedied.

SECTION 3 - REGULATIONS GOVERNING FACILITIES & CARGO

APPLICATION ITEM

STEVEDORE & FREIGHT HANDLING

300

No person, firm, corporation or other business entity that does not hold a valid Stevedore License that is in force and effect shall operate as stevedore or freight handler at facilities owned or leased or otherwise within the managerial control of the District. As used in this item, stevedore is an entity engaged in the activity of loading and/or unloading cargo, except bulk liquid; freight handler is an entity engaged in the physical loading or unloading of rail cars or trucks or engaged in any other cargo handling operation, except bulk liquid cargo, in or on the facilities of the District.

An application for license with accompanying fee shall be submitted to the District. Specific criteria pertinent to the license application are available from the Chairman. If, upon review by the District, the applicant is found ready and able to perform the services requested, the District will issue a license for the calendar year. Issuance of the license shall be evidenced by the dated signature of a duly authorized District representative on the application letter.

Licenses are granted for a calendar year and renewals must be requested on or about December 1. A license may be revoked or renewal denied if the licensee fails to comply with the District's Tariff, is no longer in business or has been inactive over six months unless good cause is demonstrated for inactivity. A license is not transferable.

Transload and intermittent cargo handling services conducted at facilities of the District, but not intended to ultimately move on or off a vessel, are not subject to this license provision. Such services must be approved by the Chairman and meet minimum insurance, credit requirements and other provisions set forth by the Authority.

Stevedore / Freight Handler license application Fee: \$1,200.00 Annual Renewal Fee: \$1,200.00

FREE TIME, WHARF DEMURRAGE RULES & CHARGES

305

Cargo which is discharged into or onto the wharf facilities or other common use properties of the District from rail cars, trucks or vessels, shall be subject to the following provisions:

- (1) Outbound or inbound cargo intended for delivery to or received from a vessel is granted fifteen (15) days free time which includes Saturdays, Sundays & Holidays. Free time begins the first 7:00 a.m. after cargo is removed from the wharf and ends when all cargo is removed from the wharf.
- (2) After expiration of free time, the following wharf demurrage charges will be assessed on cargo discharged into the facilities or open areas of the Authority. **CHARGE**: On all cargo, ten cents (\$.10) per net ton for each day or part thereof.
- (3) To encourage business, cargo may be assigned space for additional free time of thirty days. The free time accorded under this provision will be subject to availability of suitable open space and to the making of arrangements for the use thereof in advance of the cargo arrival.
- (4) Cargo delivered to the port for water transport but subsequently not shipped is subject to wharf demurrage charges with no free time allowance, commencing with the date of arrival at the port.
- (5) Wharf demurrage charges are for the account of the vessel, owner or agent for inbound cargo and for the account of the cargo owner, shipper, receiver or their agents for outbound cargo. The District reserves the right to hold cargo at its initial

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SECTION 3 - REGULATIONS GOVERNING FACILITIES & CARGO

APPLICATION ITEM

point of rest or move it at the risk and expense of the owner to another location. The District may place a lien on the cargo for accrued charges under this provision.

HANDLING HAZARDOUS MATERIALS

310

Materials classified as hazardous by the USCG or DOT will be accepted by the District for handling in waterborne commerce only if such materials and the way they are handled conforms with all rules and regulations promulgated by those agencies. Conformance is required to such further OSHA, federal, state and municipal ordinances issued pursuant thereto.

The District may refuse the use of its facilities for the handling of such hazardous and dangerous materials which are considered an undue risk to its facilities, their users, tenants and/or the citizens within the West Side Calhoun County Navigation District.

TRANSSHIPMENT OF CARGO

340

Cargo, which is discharged from a vessel and intended for transshipment will be assessed wharfage on the outward movement if reloaded within seven days of initial placement. If cargo remains beyond the seventh day, the inward and outward wharfage will be assessed.

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SECTION 4 - WHARFAGE CHARGES

COMMODITY	WHARFAGE	ITEM
All wharfage charges are in cents per Ton	(2000 pounds) unless otherwise n	oted.
GENERAL CARGO N.O.S.	225	400
CRUDE PETROLEUM, CONDENSATE, and other LIQUID (via pipeline, cents per barrel)	HYDROCARBONS	
District owned facilities Facilities owned by others	08 04	470
SEAFOOD COMMODITIES		
Oysters All others	50 cents/sack 15 cents/lb.	475 480
FRAC SAND District owned facilities Facilities owned by others	100 55	485
LIMESTONE, GRAVEL, and OTHER AGGREGATE	15	490
ANIMAL FEED and FEED ADDITIVES		
Liquid, via pipeline, per bbl Pelletized or Powdered	04 05	495 500
CHEMICALS AND PETROCHEMICALS		
Liquid, via pipeline, per bbl, District owned facilities Facilities owned by others	05 02.5	505

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SECTION 4 - WHARFAGE CHARGES

COMMODITY	WHARFAGE	ITEM
CONTAINERIZED CARGOES		
Non-HazMat, District owned facilities, per container HazMat, District owned facilities, per container	2000 2500	510
Non-HazMat, facilities owned by others, per container HazMat, facilities owned by others, per container	1000 1500	

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COMMODITY **WHARFAGE** ITEM

GENERAL FEES - PORT OF WEST CALHOUN SEADRIFT HARBOR

500

Monthly Stall Rentals: \$70 per month.

Bulkhead Space: \$10 per fifty (50) linear feet, per day.

Docking Fee: \$100 per day; otherwise a fee of \$1,500 per month.

Use of Ramp: \$125 for each loading or off-loading use.

Barges on Pilings: \$125 per barge per day.

Parking: \$5 per vehicle per day.

Use of Shell Pile Area: \$125 per day.

Potable Water: Reimbursement at rate equal to that charged by the City of Seadrift, plus

an administrative fee of \$.50 per thousand gallons used.

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