

## LEASE AGREEMENT

THE STATE OF TEXAS           §  
  §           KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF GALVESTON       §

This lease is made by and between the **City of Texas City, Texas**, a municipal corporation of the County of Galveston, State of Texas, herein called **Lessor**, and **Boyd's Seafood, Inc.**, of Galveston County, Texas, herein called **Lessee**. This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter. No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto:

### I. PREMISES

**Lessor** leases to **Lessee**, and **Lessee** hires from **Lessor**, a certain premises located in Texas City, Texas, on the Texas City Dike, Texas City, Galveston County, Texas, and more particularly described in Exhibit "A".

### II. TERM OF LEASE

This lease is for the primary term of five (5) years, commencing on December 1, 2023 and extending to November 30, 2028, with one ( 1) five-year extension allowed, if mutually agreeable by both parties, on December 1, 2028 to extend to November 30, 2033. In the case of an extension, as provided for in this section, the rental rates called for in the renewing and/or expiring leases will be adjusted from the original lease payments by the annual Consumer Price Index (CPI) last published by the Bureau of Labor Statistics of the United States Department of Labor. If the Bureau of Labor Statistics of the United States Department of Labor ceases to exist or ceases to publish statistics concerning the purchasing power of the consumer dollars during the term of this lease, the remaining rental adjustments called for in this section shall be made using the most nearly comparable statistics published by a recognized financial authority selected by **Lessor**.

### III. RENT

**Lessee** shall pay rental to **Lessor** at 1801 9th Avenue North, Texas City, Texas, of \$200.00 (TWO HUNDRED DOLLARS) per month for each pier constructed within the leased area, not to exceed three piers. **Lessee** shall keep **Lessor** notified of the construction of any additional piers on the leased premises. The first installment to be paid on December 1, 2023, and subsequent payments shall be payable on first day of each month thereafter until the end of the term. Rent installments unpaid for ten days shall bear interest at the rate of one percent ( 1 % ) per month, commencing on the day after each such installment was due and continuing until the installment is paid. Monthly rent payments shall be applied first to interest due under terms and conditions of this lease and the balance, if any, to rent.

### IV. RIGHT OF POSSESSION

It is understood that the lease is subject to all existing rights, if any, to possession and use of the demised premises vested in the United States of America, the State of Texas, and the County of Galveston. Should any agency of the United States, the State of Texas, or Galveston County, having such prior right, demand possession of the premises herein demised or any portion thereof, or any interest therein, **Lessee** shall promptly and peaceably surrender such possession. Should the exercise of the right of possession or any other right by such a governmental agency or the denial of access by the public to the **Lessee's** leasehold for any reason be deemed by **Lessee** disadvantageous to **Lessee**, he shall have the right forthwith to terminate this lease, and it shall cease and determine from and after written notification to **Lessor**. It is understood that the right to so terminate said lease shall be the only remedy available to **Lessee**, should a contingency described in this paragraph happen to occur; and **Lessor** shall never be responsible or liable in damages to **Lessee** by reason thereof.

### V. CONDITIONS OF PREMISES, INSURANCE, LIABILITY

**Lessee** accepts the premises hereinabove described in its present condition as suitable for use by him, in full recognition of the fact that it lies in an exposed position, it being well known that storms, which are prevalent along the Gulf Coast, might destroy property if placed on the premises, and that the lives of individuals remaining thereon might be endangered. **Lessor** shall not be liable to **Lessee** for damage to **Lessee's** property occasioned by rising water, wind, storm, fire or any other cause beyond the control of **Lessor**. **Lessee** agrees to hold harmless **Lessor**, its officials, officers, employees or agents from all claims or causes of action advanced by **Lessee's** employees, licensees, invitees or **Lessee's** sublessees as provided in Paragraph IX, alleging property loss, personal injury or death, claiming inadequacies or defectiveness of the said improvements and premises, and to this end, **Lessee** covenants and agrees that he will, at all times that this lease is in existence,

purchase and maintain a policy providing commercial general liability insurance coverage in a minimum amount of \$1,000,000.00, through a reputable insurance company, authorized to do business in the State of Texas, insuring **Lessee** and **Lessor** against loss or damage to person or property arising out of or in any way connected with the demised premises or use thereof or improvements placed thereupon. **Lessee** shall annually furnish a copy of such insurance to the **Lessor**.

## VI. IMPROVEMENTS

It is understood that before any improvements shall be constructed upon the premises herein demised and let, a building permit therefore shall be procured from the City Building Inspector. In addition, all existing remains of all three piers included in this lease shall be removed in their entirety. None of the remains can be re-used. The waterway must be free of debris, pilings, inoperable vessels, trash, and clutter. All improvements to be located on the premises shall be constructed in compliance with all city ordinances, state and federal regulations, statutes and laws. Any permits required by the State, Texas Parks and Wildlife, Texas Land Commission, US Corps of Engineers, or any other federal agency shall be obtained and maintained during the term of the lease. The construction of any improvements shall be maintained in a good state of repair at all times, reasonable wear and tear, loss by fire and acts of God alone excepted. However, if damaged by loss of fire or acts of God, the damage will either be repaired or the damaged improvement removed in its entirety within a reasonable time. Lack of funds is not considered a reason for delay of removal.

## VII. BUILDING STANDARDS

**Lessee** shall not commit, or allow to be committed, any waste on the premises, create or allow any nuisance to exist on the premises, or use or allow the premises to be used for any unlawful purpose. **Lessee** bears sole responsibility for maintenance and upkeep of the property and agrees that all buildings and construction located on the dike meet the following standards:

1. All piers shall be constructed to the same standards, quality, color, and the same material as the piers that the city constructed or had constructed post Hurricane Ike.
2. All structures shall conform to minimum city code requirements.
3. All piers shall be pleasing to the eye and properly maintained, as follows:
  - a. The premises to be kept neat and orderly. Premises shall not be allowed to become cluttered. All abandoned junk shall be removed.
  - b. No home-made signs.
  - c. Loading/Parking areas – must be maintained and of asphalt construction to city standards. Must be to a standard to keep all vehicles and equipment free and clear of the roadway.
  - d. Lighting – If lighting is utilized on property, it must be of like or similar lighting as that of the City's light located on the Dike and

- approved by the City as to its similarity or acceptable appearance. It must be solar energized lighting.
- e. The premises and surrounding area including the waterway shall be free of debris, pilings, inoperable vessels, trash, and clutter.
  - f. No outside storage will be allowed on the premises.
  - g. Vessels utilizing the piers shall not be in poor condition, unsightly, or ill-maintained.
  - h. No long term storage or mooring of boats or use of piers as a permanent boat dock for any vessels. No boat or vessel shall remain within the same location along the pier more than one (1) week and must leave the pier and Texas City Channel completely at the conclusion of such time before returning to the pier.
  - i. Heavy trucks and equipment shall be limited and used only in conjunction with business when needed. Any damage to City roadway or property due to heavy trucks or equipment shall be repaired by City at Lessee's expense and could be cause for termination of lease. At no time shall a truck having a gross vehicle weight over 48,000 lbs be allowed.
  - j. No poorly maintained TV antennas or other projections.
  - k. Piers should have level decks and pilings trimmed at an even level.
  - l. Live and dead bait flags should be properly maintained and replaced when worn.
  - m. Piers shall not be for general public. The Piers need to be gated and locked except when in use by the Lessee or his contractors, employees, etc.
- 4. The City Building Officer shall judge if proposed or existing construction meets the minimum aesthetic standards.
  - 5. No signs or buildings to be located within 100 feet of the roadway. If necessary, buildings will be located over the water or on a filled area, and the area between the building and the roadway shall be filled.
  - 6. There shall be no peddling or selling allowed from packs, push carts, wagons, cars, trucks, or trailers on or near the piers. All vendors will comply with the City's Vendor Ordinance.

#### VIII. USE OF PREMISES

It is understood and agreed that the **Lessee** shall use such premises solely for docking of boats on piers located on the leased property. **Lessee** shall permit **Lessor** or **Lessor's** agents, representatives, or employees to enter on the leased premises for the purpose of inspection, to determine whether **Lessee** is in compliance with the terms of this lease. **Lessee** agrees not to use the leased premises, or any part thereof, for any use or purpose in violation of any valid and applicable law, regulation, or ordinance of the United States, the

State of Texas City or the City of Texas City, or other lawful authority having jurisdiction over the leased premises. Should **Lessee** fail to use such premises for the above described purposes, this lease shall terminate and **Lessor** may retake the said premises as set out in paragraph XI of this lease; furthermore, **Lessee** agrees that in that event, **Lessor** may retain all lease money paid unto the said **Lessor** under the terms of this lease as liquidated damages for **Lessee's** breach of covenant to use demised premises set out hereinabove.

#### IX. SUBLEASE OR ASSIGNMENT

**Lessee** agrees not to assign or sublease the leased premises.

#### X. TAXES

**Lessee** hereby covenants to pay all ad valorem taxes due each taxing agency (including the City of Texas City, Texas City Independent School District, and State of Texas and Galveston County) and all taxes assessed against any and all improvements and personal property placed upon the demised premises before the same become delinquent. To show proof of timely tax payment, **Lessee** will mail to **Lessor** all paid receipts of taxes. Failure to pay and keep current such payment shall be deemed a breach of this agreement and any and all remedies shall be available to **Lessor** up to including declaring such a forfeiture of said lease as set out in Section XI. Remedies.

#### XI. REMEDIES

If **Lessee** breaches this lease, **Lessor** shall have the following remedies in addition to his other rights and remedies in such event:

- (a) **Lessor** may reenter the premises immediately and remove all **Lessee's** personal property therefrom. **Lessor** may store the property in a public warehouse or at any other place of its choosing at **Lessee's** expense or to **Lessee's** account.
- (b) After reentry, **Lessor** may terminate the lease on giving ninety (90) days written notice of such termination to **Lessee** mailed or delivered to **Lessee's** mailing address, if known. If unknown, a copy of the notice may be posted at the demised premises and this shall be sufficient notice.
- (c) After reentry, **Lessor** may relet the premises or any part thereof, for any term, without terminating the lease, at such rent and on such terms as it may choose. **Lessor** may make alterations and repairs to the premises and improvements thereon located. **Lessee** shall be liable to **Lessor** for the difference between the rent received by **Lessor** under the reletting and the rent installments that are due for the same period under this lease.
- (d) After reentry, **Lessor** may elect to remove all of the improvements constructed by **Lessee** in order to leave the premises in a clean condition with all timbers,

foundations and building materials removed and the expense of this removal shall be borne by the **Lessee**.

Extension of time for any rental payment or failure of **Lessor** promptly to enforce any remedy herein provided for breach of this lease by **Lessee** shall not constitute waiver of or otherwise alter any of **Lessor's** rights or **Lessee's** obligations hereunder. **Lessee** agrees to pay all reasonable expenses, including a reasonable attorneys' fee, and costs of repossession incurred by **Lessor** in enforcing this agreement. The remedies herein provided shall not be deemed exclusive, but shall be cumulative and in addition to all other remedies existing at law and in equity and elsewhere.

### XIII. LIENS

It is agreed that **Lessor** shall have a valid first lien upon all of the improvements and all furniture and fixtures of **Lessee** placed upon said premises, or placed in said premises during the term of the lease or which **Lessee** may own upon said premises, to secure all rent due or to become due under this lease contract, and all exception laws are hereby waived in favor of said lien, and it is understood that said express lien shall not be construed as a waiver of any statutory lien given the **Lessor**, but shall be cumulative of and additional thereto.

### XIV. RENEWAL NOTICE

On or before November 1, 2028, **Lessee** shall give written notice to **Lessor** of **Lessee's** desire to renew and or negotiate a new lease on said property as provided for in Section XV hereof. The annual anniversary date shall be December 1 of each year.

### XV. OPTION

It is further agreed that if **Lessee** shall well and faithfully keep and perform all the terms, conditions and covenants hereof, including the payment of rental installments as herein provided, upon the expiration of the primary term hereof, **Lessee** shall have the option of leasing the demised premises for an additional term of five ( 5) years. **Lessee** understands that cooperation with **Lessor** and compliance with all lease terms are taken into consideration on all lease renewals. All communications regarding leases or any matter concerning leases shall be with the City Secretary, City of Texas City and any such communications not directed first to the aforesaid office shall be a violation of the lease. Failure of the parties to agree upon terms of a new lease prior to expiration of the term of this lease, shall render **Lessee** a tenant from month to month subject to all terms contained herein at the same rental rate last paid under the terms hereof, and shall be terminable at will by either party.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023.

LESSOR:

THE CITY OF TEXAS CITY

By: \_\_\_\_\_  
Dedrick Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Rhomari Leigh, City Secretary

LESSEE:

BOYD'S SEAFOOD, INC.

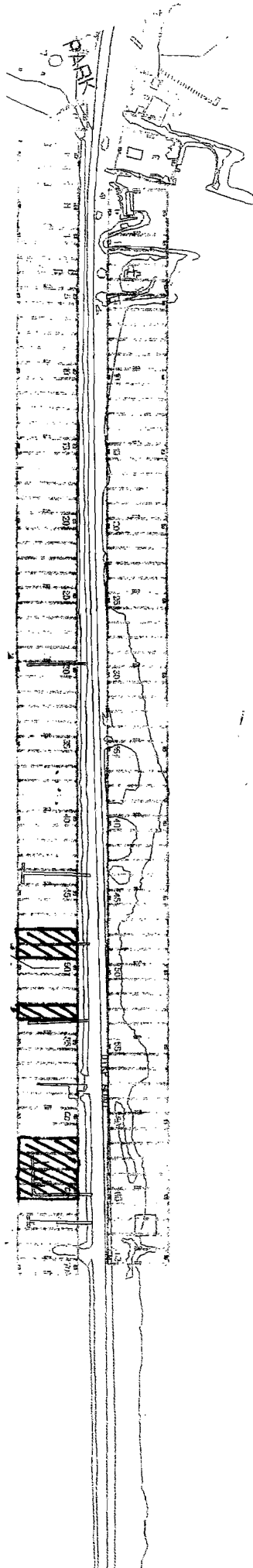
By: \_\_\_\_\_  
Jason Cogburn, President

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Date

Boyd's Lease  
December  
2023



Dike South Side Pier & Breakwater,  
Blocks 48 & 49

Dike South Side Pier, Block 53

Dike South Side Pier & Breakwater,  
Blocks 62, 63, 64 & 65