



THE SUNRISE CITY  
**FORT PIERCE**  
CITY ATTORNEY'S OFFICE *Florida*

TO : DEAN KUBITSCHEK, MARINA DIRECTOR  
FROM : Pete Sweeney, City Attorney  
RE : Little Jim's Bait and Tackle Lease  
DATE : January 17, 2019

The following Lease have been approved as to Legal Form and Correctness.

PS/mm

cc: Nicholas C. Mimms, P.E., City Manager  
Linda Cox, City Clerk

OK  
1/22/19

Received  
JAN 18 2019  
City of Fort Pierce  
City Manager's Office



THE SUNRISE CITY  
**FORT PIERCE**  
 CITY ATTORNEY'S OFFICE Florida

**CITY ATTORNEY USE ONLY**

Date Received:	
Assigned To:	
File:	
Due Date:	
Hours:	

**RECEIVED**  
 JAN 16 2019  
 BY: *[Signature]*

**Received**  
 JAN 16 2019  
 City of Fort Pierce  
 City Manager's Office

**REQUEST FOR LEGAL SERVICES**

**To:** CITY ATTORNEY

**SUBMITTED BY:** MARINA MANAGER, DEAN KUBITSCHK *[Signature]*

**CITY MANAGER AUTHORIZATION:** NICHOLAS C. MIMMS, P.E., CITY MANAGER *NCM*

**RE:** LITTLE JIM'S BAIT AND TACKLE LEASE

**DATE:** JANUARY 16, 2019

**Service Required:** (please circle or underline)

<u>Review Documents</u>	Draft Document	Written Opinion Requested
Attend Meetings	Advise	Other: _____

Upon review and/or "Approval as to Form and Correctness," the Department submitting the RLS is responsible for placement of any related item on a Commission or Board Agenda.

- Brief statement of the nature of the request or problem:** Request legal department review documents to verify the ability to reassign the Little Jim's Bait and Tackle, Inc. lease to Diego M. Larroude and Donna Qvarnstrom-Burke with Commission approval.
- Discussion of the implications and the possible impact if not apparent from preceding information:** n/a
- Time considerations and their significance:** Would like to place on the agenda for the February 4<sup>th</sup> Agenda Meeting (deadline January 23<sup>rd</sup>).
- Are City funds required? If so, list approvals obtained for expenditure of funds:** No
- Factual background:**

- Little Jim's Bait and Tackle lease reassignment
- City of Fort of Fort Pierce
- Richard and Rita King
- Diego M. Larroude and Donna Qvarnstrom-Burke

6. List and/or attach all related documents and known authorities (e.g., statute, ordinance, resolution, administrative code, legal case, RFP, bidder's response, contract, lease, letter, memorandum, prior legal opinion, deed, etc.):

- 
- 

7. Identify prior legal assistance on this or a related matter and the attorney who handled it:  
Former City Attorney, Rob Schwerer

8. If this is a request for review of a contract, provide the following:

a. List of individuals who have read and approved the business terms and conditions of the contract and confirmed the ability to carry out the terms of the contract as they apply to the City: City of Fort Pierce legal department.

b. Insurance requirements that differ from the City's template insurance terms:

Outlined in Little Jim's Bait and Tackle, Inc. original contract.

CITY ATTORNEY USE ONLY			
Routed for Review	Date	Response Deadline	Response

NOTICE OF CONSENT

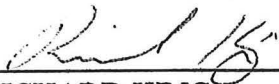
TO: Nick Mimms, City Manager and Representative for City Commission  
City of Fort Pierce  
100 N. U.S. Highway 1  
Fort Pierce, Florida 34950

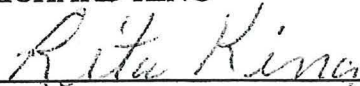
TO ALL IT MAY CONCERN:

Please accept this document as formal notice of the consent and request of Little Jim's Bait and Tackle, Inc., and principals and its guarantors, Richard A. King and Rita King for the Assignment of the Lease Agreement for Little Jim's property entered into on April 3, 2015, to Diego M. Larroude and Donna Qvarnstrom-Burke per agreement between the parties.

Dated January 15, 2019.

Little Jim's Bait and Tackle, Inc.

  
\_\_\_\_\_  
RICHARD KING

  
\_\_\_\_\_  
RITA KING

# City of Fort Pierce



## Office of the City Clerk

City Hall, 100 North US 1  
P.O. Box 1480 Fort Pierce, FL 34954-1480  
(772) 467-3052 • [www.CityOfFortPierce.com](http://www.CityOfFortPierce.com)

April 23, 2015

Little Jim's Bait & Tackle, Inc.  
Richard A. King  
6502 Santa Clara Blvd.  
Fort Pierce, FL 34951

Re: Lease Extension

Dear Mr. King:

Enclosed is a fully executed Lease Extension between Little Jim Bait and Tackle, Inc. and the City of Fort Pierce which was approved at the April 20, 2015 meeting of the Fort Pierce City Commission. The lease term shall be extended for an additional ten (10) year period, commencing on March 1, 2015. I have retained an original for the official city files.

If you have any questions, please don't hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Linda W. Cox".

Linda W. Cox  
City Clerk

cc: Nicholas Mimms, Deputy City Manager (w/o attachment)

## LEASE EXTENSION

**THIS LEASE EXTENSION AGREEMENT**, is made and entered into this \_\_\_ day of March, 2015, by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, ("**LANDLORD**"), and **LITTLE JIM BAIT AND TACKLE, INC.** a Florida corporation organized under the laws of Florida with its principal address at 601 North Causeway Drive, Fort Pierce, Florida, ("**TENANT**").

**WHEREAS**, the Landlord and Tenant entered into a five (5) year Lease Agreement for the parcel generally referred to as "Little Jim Fish Camp", Fort Pierce, Florida, attached hereto as Exhibit "A", commencing on March 1, 2010; and

**WHEREAS**, TENANT and LANDLORD have mutually agreed to a ten (10) year lease extension as provided under said Lease.

**NOW, THEREFORE**, in consideration of the covenants herein contained, and the sum of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, **LANDLORD** and **TENANT** do hereby agree as follows:

- 1) The Lease term shall be extended for an additional ten (10) year period, commencing on March 1, 2015.
- 2) Portions of Section 7 Insurance of the Lease are updated and modified as follows:

### Workers' Compensation/Employer's Liability Insurance

Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those endorsements which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One:	"Statutory"	
Part Two:	\$500,000	Each Accident
	\$500,000	Disease – Policy Limit
	\$500,000	Disease – Each Employee

The Workers' Compensation Policy must be endorsed to waive the insurer's right to subrogate against CITY, and its members, officials, officers and employees in the manner which would result from the attachment of the NCCI Waiver Of Our Right To Recover From Others Endorsement (Advisory Form WC 00 03 13) with the City of Ft. Pierce and its officials, officers and employees scheduled thereon.

### Marina Operators Insurance

Such insurance shall include coverage for marina operators' legal liability, protection and indemnity, and commercial general liability. The commercial general liability coverage shall be no more restrictive than that provided by the

most recent version of standard Commercial General Liability Form (ISO Form CG 00 01) without any restrictive endorsements. CITY and its officials, officers and employees shall be included as an "Additional Insured" on a form no more restrictive than ISO Form CG 20 11 (Additional Insured – Managers or Lessors of Premises Owners, Lessees, or Contractors). The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

- \$500,000 Marina Operators Legal Liability
- \$500,000 Protection and Indemnity
- \$500,000 General Aggregate
- \$500,000 Products/Completed Operations Aggregate
- \$500,000 Personal and Advertising Injury
- \$500,000 Each Occurrence

3) All other terms and conditions of the Lease shall remain the same.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Extension to be executed by their appropriate officials, as of the date first above written.

CITY OF FORT PIERCE, a municipal corporation, LANDLORD

Attest:

Linda W. Cox  
Linda Cox, City Clerk

By: Linda Hudson  
Linda Hudson, Mayor

Approved as to Form and Correctness:

Robert W. Schwerer  
Robert W. Schwerer, Esq.  
City Attorney

LITTLE JIM BAIT & TACKLE, INC., a Florida Corporation, TENANT

By: Richard A. King  
Richard A. King, President

STATE OF FLORIDA  
COUNTY OF ST. LUCIE

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared, **Richard A. King**, as President of LITTLE JIM BAIT & TACKLE, INC. to me known to be the person described in and who executed foregoing document and who has produced drivers license as identification and who did take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 3<sup>rd</sup> day of ~~March~~ April, 2015.

Linda W. Cox  
Notary Public, State of Florida at Large  
My Commission expires: \_\_\_\_\_



LINDA WRIGHT COX  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF052403  
Expires 9/9/2017

THE UNIVERSITY OF  
MICHIGAN LIBRARY  
ANN ARBOR, MICHIGAN  
48106-1000



## LEASE AGREEMENT FOR LITTLE JIM PROPERTY

THIS LEASE AGREEMENT is entered into this ~~25<sup>TH</sup>~~<sup>MAY</sup> day of March, 2010, having an effective date of March 1, 2010, by and between the **CITY OF FORT PIERCE**, a municipal corporation within the territorial limits of St. Lucie County, Florida (hereinafter "LANDLORD") whose address is 100 North U.S. 1, Fort Pierce, Florida 34950; and **LITTLE JIM BAIT & TACKLE, INC.**, a Florida corporation (hereinafter "TENANT"), whose business address is 601 North Causeway Drive, Fort Pierce, Florida 34949.

### WITNESSETH:

**WHEREAS**, the Landlord is the owner of land, building and certain improvements located on a barrier island on the southeast side along the waterway, generally known as Little Jim's located at 601 North Causeway Drive, Fort Pierce, Florida 34949 (the "Demised Premises") which is more fully depicted and described on Exhibits "A-1" and "A-2" attached hereto; and

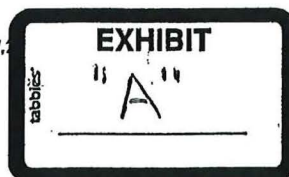
**WHEREAS**, the TENANT has been selected by the City Commission of City of Fort Pierce through a competitive selection process as the operator and lessee of the Demised Premises; and

**WHEREAS**, the TENANT has agreed to operate and improve the Demised Premises in accordance with this Lease; and

**WHEREAS**, the Lease of the Demised Premises to TENANT by Landlord shall be subject to all existing zoning and building restrictions and regulations and any provisions and clauses set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **TERM.** The term of this Lease shall be five (5) years commencing March 1, 2010, to and including February 28, 2015 to be followed by a conditional option to renew for a ten 10 year term, provided the TENANT shall at all times remain in full compliance with all terms and conditions of this Lease and that TENANT shall have completed all required improvements. In the event TENANT shall complete the



Improvements in Schedule "A" within the first three (3) years of the original term, TENANT shall be entitled to the optional ten (10) year renewal term.

TENANT shall furnish LANDLORD with a minimum of six (6) months written notice of its intention to exercise this option prior to the expiration of the initial term. Acceptance of such option by LANDLORD shall be conditioned upon compliance as provided herein.

**2 DEMISED PREMISES.** The Demised Premises consists of an approximate eight hundred eighty (880) square foot, more or less building formerly known as LITTLE JIM FISH CAMP, together with ground level deck, and 200 linear feet of dock walkway providing approximately 470 linear feet of dockage, located at the southeast side of the DOT bridge on Alt. A1A known as Little Jim Bridge as depicted on Exhibits "A-1" and "A-2, attached hereto and incorporated herein by reference.

**3 LEASE PAYMENTS.** TENANT in consideration of this Lease, shall pay LANDLORD, without demand, at the offices of the Director of Finance, City Hall, 100 North U.S. 1, Fort Pierce, Florida 34954, or such other place as LANDLORD may from time to time designate in writing, rent in the amounts and manner set forth herein:

(a) from the commencement hereof through March 31, 2011 the sum of \$1,600 due upon the 1<sup>ST</sup> day of each month;

(b) commencing April 1, 2011 through March 31, 2012 \$1,800 per month due upon the 1<sup>ST</sup> day of each month.

(c) commencing April 1, 2012 through March 31, 2015 the sum of \$2,000 per month due upon the 1<sup>ST</sup> day of each month.

(d) During the optional renewal period and commencing the first day of the first year of the optional renewal lease term, rent shall be readjusted, modifying the current term rent for the year by an amount equal to (100%) of the Annual "Unadjusted Percent Change" in the Consumer Price Index (CPI), for "United States City Average" for the previous year as published by the Bureau of Labor Statistics, for the month in which the first year of the optional lease term begins. For each change of one (1) index point in the CPI, rent shall be adjusted by a factor of 1.0%.

Any adjustments shall take effect at the end of the twelfth month of the year preceding the first day of the first month of the new lease year and will be further adjusted each twelve (12) months thereafter. Said adjustment will be based on the most recent CPI indices available immediately prior to the adjustment date.

LANDLORD shall notify TENANT of the adjusted rent due based on the preceding method of adjustment, and TENANT shall promptly pay the same. If LANDLORD shall notify TENANT of such adjusted rent subsequent to the payment of any rent for such lease year, upon the first day of the month immediately following the receipt of such notice, TENANT shall pay the amount due for the months during such lease year as to which rent without such adjustment had previously been paid. Such adjusted rent shall not, under any circumstances, result in a reduction of the previous year's rent.

The covenant of TENANT to pay rent is separate and distinct from other covenants and TENANT shall have no right of set-off or reduction in the payment of rent for any reason. Payments required hereunder shall be in United States currency or its equivalent.

4 **TAX.** In addition to rent specified herein, and other sums of money provided in and by this Lease to be paid by TENANT, TENANT shall pay in advance the full amount of all property, sales, use, excise and rental taxes levied, assessed by or payable to any governmental agency, body or taxing authority for or on account of this Lease.

TENANT shall also be responsible for and pay any ad valorem and non ad valorem taxes which are assessed upon the property leased by TENANT, assessed by the taxing authority during TENANT's usage and lease of the property.

TENANT shall pay prior to delinquency all taxes assessed and levied upon the trade fixtures, furnishings, equipment, inventory and all other personal property of TENANT contained in the leased premises or elsewhere.

5 **LATE CHARGES.** In the event any base rent payment due hereunder shall not be paid within ten (10) days after the due date, TENANT shall pay LANDLORD a late charge of five (5%) percent of such late payment.

6. **HOURS OF OPERATION.** At all times during this Lease, TENANT shall be required to operate a fish camp with related facilities and amenities including bait and tackle shop, dockage, basic boat supplies, snacks, food & beverages, including patio,

casual dining, with minimum hours of operation to vary by season, holidays and related factors seven days per week. TENANT agrees to operate no less than 8 hours per day, weather permitting. TENANT further agrees that it will offer breakfast and casual lunch and dinner during selected months. TENANT shall have the right to determine its business hours within the above perimeters and as provided herein.

TENANT further acknowledges the need for the continuous and regular operation, including the duty to exercise best management practices, and the operation of said business as provided for herein shall be a separate covenant under this Lease.

**7. INSURANCE.** TENANT shall, at its own expense, procure and maintain throughout the term of this Agreement, with insurers acceptable to CITY, the types and amounts of insurance conforming to the minimum requirements set forth herein.

As evidence of compliance with the insurance required herein, TENANT shall furnish CITY with:

- (a) a fully completed satisfactory Certificate of Insurance evidencing all coverage required herein. Also, a copy of the actual additional insured endorsement as issued on the Commercial General Liability policy, signed by an authorized representative of the insurer(s) verifying inclusion of CITY and CITY's members, officials, officers and employees as additional insureds in the Commercial General Liability coverage; or
- (b) the original of the policy(ies); or
- (c) other evidence satisfactory to CITY.

All policies should be endorsed to provide thirty (30) days written notice of cancellation to CITY for all coverages. Until such insurance is no longer required by this Contract, TENANT shall provide CITY with renewal or replacement evidence of insurance prior to the expiration or termination of such insurance at least thirty (30) days prior to the expiration or termination of such insurance.

If requested to do so by CITY, TENANT shall, within thirty (30) days after receipt of a written request from CITY, provide CITY with a certified, complete copy of the policies of insurance providing the coverage required.

Workers' Compensation/Employer's Liability Insurance

Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One: "Statutory"

Part Two: \$ 500,000 Each Accident  
\$ 500,000 Disease - Policy Limit  
\$ 500,000 Disease - Each Employee

The Workers' Compensation Policy must be endorsed to waive the insurer's right to subrogate against CITY, and its members, officials, officers and employees in the manner which would result from the attachment of the NCCI Waiver Of Our Right To Recover From Others Endorsement (Advisory Form WC 00 03 13) with the City of Ft. Pierce and its officials, officers and employees scheduled thereon.

#### Marina Operators Insurance

Such insurance shall include coverage for marina operators' legal liability, protection and indemnity, and commercial general liability. The commercial general liability coverage shall be no more restrictive than that provided by the most recent version of standard Commercial General Liability Form (ISO Form CG 00 01) without any restrictive endorsements. CITY and its officials, officers and employees shall be included as an "Additional Insured" on a form no more restrictive than ISO Form CG 20 10 (Additional Insured - Owners, Lessees, or Contractors). The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

\$ 500,000 Marina Operators Legal Liability  
\$ 500,000 Protection and Indemnity  
\$ 500,000 General Aggregate  
\$ 500,000 Products/Completed Operations Aggregate  
\$ 500,000 Personal and Advertising Injury  
\$ 500,000 Each Occurrence

#### Liquor Liability Coverage

Such insurance shall cover liability of TENANT arising out of the sale of alcoholic beverages on the Demised Premises and in the course of their business. The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

\$ 500,000 General Aggregate

\$ 500,000 Each Occurrence

Automobile Liability Insurance

Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of the work. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

\$ 500,000 Each Occurrence - Bodily Injury and Property  
Damage Combined

Pollution Legal Liability Insurance

If TENANT engages in fuelling operations, TENANT shall procure and maintain insurance applicable to TENANT's liability resulting from pollution or other environmental impairment arising out of, or in connection with such fuelling operations including the use of any storage tanks. Such coverage shall include coverage for clean-up of pollution conditions and 3<sup>rd</sup> party bodily injury and property damage claims arising from pollution conditions.

Coverage must either be on an occurrence basis; or, if on a claims-made basis, the coverage must respond to all claims reported within three years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

\$ 500,000 per claim

\$ 500,000 aggregate

The CITY and the CITY's officials, officers, agents and employees shall be included as an "Additional Insureds" on the policy.

The Maximum permissible deductible or self-insured retention on the pollution

liability policy shall be \$25,000 per claim. The payment of any amount owed under any deductible or self-insured shall be the sole responsibility of TENANT and TENANT shall pay on behalf of the CITY or CITY's officials, officers, agents and employees any deductible or self-insured retention applicable to a claim against the CITY or the CITY's officials, officers, agents and employees.

#### Property Insurance

The CITY shall have no responsibility to maintain property insurance on any of TENANT's property. It shall be the sole responsibility of TENANT to maintain property insurance coverage on the building and improvements on the Demised Premises and all contents of such buildings. If TENANT elects to maintain such coverage on TENANT's buildings and contents, such coverage shall be paid for by TENANT. LANDLORD consents to TENANT obtaining such coverage.

In the event TENANT obtains property insurance coverage on the building and improvements, LANDLORD shall be named as an additional insured; provided, however, that should the Demised Premises be damaged by fire or other insured casualty, and the improvements on the Demised Premises are capable of being repaired or rebuilt, all insurance proceeds shall be utilized for the costs to repair and rebuild. In the event the buildings and improvements cannot be repaired or rebuilt, or in the event the costs thereof exceed the available insurance proceeds, all insurance proceeds from losses of any structures shall be paid as follows: (a) to TENANT if during the first four (4) years of this Lease; (b) to LANDLORD during the last year of the initial term;; (c) to TENANT during the first five (5) years of the subsequent or renewal term; (d) seventy five percent (75%) to TENANT and twenty five percent (25%) to LANDLORD during years six (6) through eight (8) of the subsequent or renewal term; and (e) one-half (1/2) to TENANT and one-half (1/2) to LANDLORD during years nine (9) and ten (10) of the subsequent or renewal term.

#### General Conditions

The insurance provided by TENANT shall apply on a primary basis to, and shall not require any contribution from, any insurance, or self-insurance, maintained by the CITY, or its officials, officers and employees.

Except as provided herein or where prior written approval has been obtained from

CITY hereunder, no deductible or self-insured retention for any required insurance provided by TENANT pursuant to this Agreement will be allowed. To the extent there is any deductible or self-insured retention applicable to any required insurance, TENANT shall be solely responsible for paying such deductible or self-insured retention, including any amounts owed under such deductible or self-insured retention on behalf of CITY, or its officials, officers and employees.

Compliance with these insurance requirements shall not limit the liability of TENANT. Any remedy provided to the CITY by the insurance provided by the TENANT shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of TENANT) available to the CITY under this Agreement or otherwise.

Neither approval nor failure to disapprove insurance furnished by TENANT shall relieve TENANT from responsibility to provide insurance as required by this Agreement.

**8. USE OF PREMISES.** TENANT will use and occupy the premises solely as a dockage facility with attendant amenities, including bait and tackle shop, snack bar, casual restaurant in a rustic old Florida style.

- a) TENANT may seek to obtain subject to applicable regulations, licensure for retail sales of beer and wine for on-premises and off-premises consumption. TENANT represents it currently has beer and wine license including off-premises consumption. LANDLORD acknowledges TENANT may seek to obtain a license to serve a full-line of alcoholic beverages for on-premises consumption. TENANT shall provide copies of all liquor license records to LANDLORD upon request.
- b) TENANT specifically agrees not to conduct its business in a manner that disturbs the quiet enjoyment of any nearby residents and agrees to conduct its business in compliance with all applicable laws.
- c) TENANT further agrees to:
  - 1) keep the premises in a clean and sanitary condition; to comply with all laws, ordinances, rules, regulations, environmental permits, and all other

- obligations imposed by applicable provisions of building, housing, health, and environmental codes by any State or Federal law, regulation, or agency; and
- 2) to make no alterations or additions to the Demised Premises except as set forth herein, without the prior written consent of LANDLORD, and
  - 3) to forbid overnight stays, including live-aboard persons on any docked or moored vessel; and
  - 4) to commit no waste of the premises; to remove all garbage and other debris which results from the operation of TENANT's business in a clean and sanitary manner and to remove the garbage and debris in conformity with all laws and regulations; to keep all plumbing fixtures used by TENANT clean and sanitary and in repair, to use and operate in a reasonable manner all electrical, plumbing and other facilities; not to destroy, deface, damage, impair or remove any part of the Demised Premises or property therein belonging to LANDLORD; and
  - 5) to direct persons on the premises with TENANT's consent to conduct themselves in a manner that does not constitute a breach of the peace; and
  - 6) to surrender the Demised Premises at the termination of this Lease in as good state and condition reasonable use and wear permitted.
- d) TENANT shall have the right, subject to approval of LANDLORD to adopt reasonable rules and regulations applicable patrons, customers and members of the public in utilization of the Demised Premises which may include one or more of the following or similar rules:
- (1) Limitation of patrons, customers and members of the public, bringing food and beverages from off site for consumption on Demised Premises, that have not been purchased or acquired from TENANT, including unlicensed alcoholic beverages provided that no limitation shall prevent patrons, customers, or members of the public from consuming such food or beverages on their private vessels or watercraft or the immediate vicinity thereof.

(2) Reserving the right to refuse access to the Demised Premises to any person whose actions, threats, possession of any weapons or obvious impairment poses a threat to persons or property.

(3) Usage of Dockage Agreement approved by Landlord.

(4) Service of any food or beverages including alcoholic beverages consistent with State of Florida requirements for protection of TENANT's liquor license.

(5) Hours of operation, as approved by LANDLORD, including usage of dockage, docks and piers.

**9. MAINTENANCE AND REPAIR.** TENANT shall at all times maintain its facility(s), and all appurtenances thereof in a condition and appearance in keeping with the intent of the parties, in compliance with all local, state and federal statutes, codes, ordinances and rules. TENANT shall keep and maintain in good order, condition and repair (which repair shall mean replacement, if necessary) docks, piers, walkways, exterior and interior walls, roof, exterior and interior portions of all doors, windows, glass, plumbing and sewage facilities, fixtures, interior electrical equipment serving the Demised Premises, floors and ceilings, and all other parts of the Demised Premises. LANDLORD shall not be responsible to maintain or to make any improvements or repairs of any kind in or upon the Demised Premises.

It is anticipated that TENANT will need to install certain improvements and equipment at the Demised Premises which may include a second story, tiki, decking, kitchen equipment, electrical and plumbing fixtures which will become a part of the Demised Premises. See Schedule "A" attached.

If any repairs required to be made by TENANT hereunder are not commenced and proceeded with due diligence within ten (10) days after written notice delivered to TENANT by LANDLORD (or within such shorter period as LANDLORD should require in the event of an emergency, with or without notice), LANDLORD may, at its option, make such repairs without liability to TENANT for any loss of damage which may result to its stock or business by reason of such

repairs, and TENANT shall pay to LANDLORD immediately upon demand as additional rent hereunder, the costs of such repairs plus ten (10%) of the amount thereof (for LANDLORD' s service and overhead costs). At all times during the term of this Lease, TENANT shall maintain the Demised Premises and operate its facility(s) and business in a tasteful manner in accordance with the intent of the parties so as to enhance the image and appearance of the facility.

10. **ALTERATIONS.** Except as provided herein, TENANT shall not make any alterations, additions or improvements to the Demised Premises without the prior written consent of LANDLORD, except for the installation of unattached, movable trade fixtures which may be installed without defacing the Demised Premises. All alterations, additions, improvements and fixtures (other than movable trade fixtures) which may be made or installed upon the Demised Premises shall become the property of LANDLORD upon installation and shall remain upon and be surrendered with the Demised Premises at the termination of the Lease unless LANDLORD requests their removal, in which event TENANT shall remove the same and restore the Demised Premises to the original condition at TENANT's expense. Any linoleum, carpeting or other floor covering which may be cemented or otherwise affixed to the floor of the Demised Premises shall be a permanent fixture and shall become the property of LANDLORD without credit or compensation to TENANT. LANDLORD shall at all times retain sole control of the exterior appearance of the building and the Demised Premises, including but not limited to approval over exterior colors and color scheme for the building and all of its fixtures and appurtenances, to further include all signage.

TENANT undertakes and covenants to perform certain alterations, upgrades, improvements and additions to the Demised Premises during the term hereof which are set forth and outlined on Schedule-"A" attached hereto. TENANT shall commence the improvements listed on Schedule "A" in no particular sequence within 90 days of the date hereof and shall complete all improvements listed on Schedule "A" within the initial term hereof.

11. **UTILITIES.** TENANT shall contract, in its own name and shall pay the

charge before delinquency, for all utility services rendered or furnished to the Demised Premises, including water, gas, electricity, telephone, garbage and the like, together with all taxes or other charges levied on such utilities.

**12. TITLE TO IMPROVEMENTS.** Title to any building, structure or other improvements (other than movable trade fixtures) that shall be constructed, installed or placed upon the Demised Premises shall vest in LANDLORD upon the termination of this Lease or any renewal or extension hereof, and TENANT acknowledges that it shall have no right to remove such fixed and permanent improvements and any fixed appliances, apparatus or equipment related to the Improvements, including all replacements, accessories and modifications thereof from the Demised Premises.

**13. DAMAGE AND OBLIGATION TO RESTORE.** TENANT shall give immediate written notice to LANDLORD of any damage caused to the Demised Premises by fire or other casualty. If the Demised Premises should be: (1) damaged by any casualty and; (2) be damaged to an extent in excess of fifty percent (50%) of the cost of replacement thereof, LANDLORD and TENANT may elect either to terminate the lease or to proceed to rebuild and repair the Demised Premises. Should LANDLORD elect to terminate the lease, it shall give written notice of such election to TENANT within ninety (90) days after the occurrence of such casualty.

In such event, TENANT shall have ninety (90) days to present a plan to rebuild the Demised Premises and provide evidence of sufficient funding, including insurance proceeds.

**14. LIABILITY AND INDEMNIFICATION.** LANDLORD shall not be liable for any damage or injury to any person or property whether it be to the person or property of TENANT, TENANT's employees, agents, guests, invitees, or otherwise, by reason of TENANT's use and occupancy of the leased premises, or due to the negligent, reckless, or intentionally wrongful acts of Tenant or because of fire, flood, wind storm, acts of God, or for any other reason, including the negligent, reckless, or intentionally wrongful acts of third persons on the premises, except such damage or injury arising or occurring as a result of LANDLORD's positive acts, negligent acts or omissions. TENANT hereby agrees to defend indemnify and save harmless LANDLORD, its officers, employees,

representatives and agents from and against any and all loss, damage, claim, demand, liability, cost or expense by reason of damage to person or property which may arise or be claimed to have arisen as a result of the occupancy or use of the Demised Premises by the TENANT, or in any way arising on account of any injury or damage caused to any person or property on or in the Demised Premises as a result of TENANT's occupancy including, but not limited to, LANDLORD's attorney's fees and costs, both at trial and appellate levels; provided TENANT shall have the right to designate and employ all counsel, including joint counsel for both LANDLORD and TENANT thereby accepting any tender of defense. This provision shall be deemed satisfied if any insurance provides a defense and is an additional named insured. If there is no insurance coverage TENANT shall provide a defense at its costs, with counsel that is reasonably acceptable to LANDLORD.

**15. EMINENT DOMAIN.** If the Demised Premises or any part thereof should be permanently taken, condemned or transferred by agreement in lieu of condemnation for any public or quasi-public use or purpose by any competent authority, whether or not the Lease shall be terminated, the entire compensation award therefore, both leasehold and reversion shall be the property of LANDLORD without any deduction therefrom for any present or future estate of TENANT, and TENANT hereby assigns to LANDLORD all its right, title and interest to any such award. TENANT shall execute all documents required to evidence such result. TENANT shall, however, be entitled to claim, prove and receive in such condemnation proceedings, such award as may be allowed for fixtures and other equipment installed by it, but only if or to the extent such award shall be in addition to the award for the land and the building and other improvements (or portions thereof) containing the Demised Premises.

If the entire Demised Premises should be taken, condemned, or transferred as aforesaid, the Lease shall terminate as of the time possession thereof is required for public use. If a portion of the Demised Premises should be taken, condemned or transferred as aforesaid, LANDLORD may elect to terminate the Lease, or at its own expense, to repair and restore the portion not affected by the said taking, in which latter event the minimum rent shall be reduced in proportion to the area taken, effective at the time possession is required for public use.

**16. ASSIGNMENT AND SUBLETTING.** The identity and financial standing of TENANT is a material consideration of LANDLORD in entering into

the Lease. TENANT shall not voluntarily, involuntarily, or by operation of law, assign, sell, mortgage, pledge, or in any manner transfer the lease or any estate or interest therein or sublet the Demised Premises or any part thereof, or grant any license, concession, or other right to occupy any portion of the Demised Premises without the prior written consent of LANDLORD, which consent LANDLORD may not unreasonably withhold. For purposes of this provision, the sale, transfer, or assignment by any shareholder of TENANT of its shares, or the sale of shares by TENANT to any individual, firm, or entity which results in the transfer of more than forty (40%) percent of the stock of such corporation, or causes the existing shareholders to be less than a majority of the control of the corporation, shall also be considered a transfer of this Lease which shall require LANDLORD's prior written consent. Although TENANT may have the right to mortgage its interest in this Lease, all rights acquired under the leasehold mortgage shall be subject to all of the terms of this Lease. There shall be no subordination of this Lease and the LANDLORD shall otherwise be protected in any financing arrangement. TENANT agrees that any leasehold mortgage it may execute in obtaining financing for the construction and development of the proposed facilities shall contain language incorporating the foregoing provision. Consent by LANDLORD to one or more assignments or subletting shall not operate as a waiver of LANDLORD's rights as to any subsequent assignments and subletting. Notwithstanding any assignment or subletting, TENANT and any guarantor of TENANT's obligations under the Lease shall at all times remain fully responsible and liable for compliance with all of the obligations of TENANT, including the payment of rent.

In the event of the transfer and assignment by LANDLORD of its interest in the Lease and in the building(s) and structures comprising the Demised Premises, LANDLORD shall thereby be released from any further obligations and TENANT agrees to look solely to such successor in interest for performance of such obligations. Such transfer and assignment, however, shall not affect the validity of this Lease, and TENANT shall continue in possession of the premises subject to all terms and conditions provided in the Lease.

**17. DEFAULT AND REMEDIES.** The occurrence of any one or more of the following events shall constitute a material default and breach of the Lease by TENANT:

- a. The vacating or abandonment of the Demised Premises by

TENANT, with intent to so abandon and not the result of a casualty.

b. The failure by TENANT to make payment of rent or any other payment required to be made by TENANT hereunder, as and when due, where such failure shall continue for a period of three (3) days after written notice thereof from LANDLORD to TENANT.

c. The failure by TENANT to observe or perform any of the covenants, conditions or provisions to be observed or performed by TENANT, other than described in Paragraphs a and b above, where such failure shall continue for a period of ten (10) days after written notice thereof from LANDLORD to TENANT; provided, however, that if the nature of TENANT's default is such that more than ten (10) days are reasonably required for its cure, TENANT shall not be deemed in default if TENANT commences such cure within said ten (10) day period and thereafter diligently pursues such cure to completion.

d. If TENANT or any guarantor should commence, in any court pursuant to any statute either of the United States or of any state, an insolvency or bankruptcy proceeding (including, without limitation, a proceeding for liquidation, reorganization or for adjustment of debts of an individual with regular income), or if such a proceeding is commenced against TENANT or any said guarantor and either an order of relief is entered against such party or such party fails to secure a discharge of the proceeding within thirty (30) days of the filing thereof, or if TENANT or any said guarantor becomes insolvent or is unable or admits in writing its inability to pay its debts as they become due, or makes an assignment of both benefit of creditors or petitions for or enters into an arrangement with its creditors or a custodian is appointed or takes possession of TENANT's or any said guarantor's property whether or not a judicial proceeding is instituted in connection with such arrangement or in connection with the appointment of such custodian.

e. The discovery by LANDLORD that any financial statement given to LANDLORD by TENANT, any assignee of TENANT, any subtenant of TENANT, any successor in interest of TENANT, or any guarantor of TENANT's obligations, and any of them, is materially false.

18. **REMEDIES UPON DEFAULT.** In the event of any default or

breach by TENANT, LANDLORD may at any time thereafter, without notice or demand and without limiting LANDLORD in the exercise of any right or remedy which LANDLORD may have by reason of such default or breach:

(a) Declare the entire rent for the balance of the Lease term, or any part thereof, due and payable forthwith, and bring an action for the recovery thereof, subject to LANDLORD's obligation to mitigate damages.

(b) Terminate TENANT's right to possession of the Demised Premises by any lawful means and retake possession thereof for the account of LANDLORD, in which event TENANT shall immediately surrender possession of the Demised Premises to LANDLORD and all further liability under the Lease on the part of the TENANT and LANDLORD shall terminate.

(c) Pursue any other remedy now or hereafter available to LANDLORD under the laws and judicial decisions of the State of Florida. In the event of a proceeding involving TENANT under the Bankruptcy Code, 11 U.S.C. §101 et seq., if the Lease is assumed by TENANT's trustee in bankruptcy (after he has cured all existing defaults, compensated LANDLORD for any loss resulting therefrom and provided adequate assurance of future performance), then the Lease may not be assigned by the trustee to a third party, unless such party (1) executes and delivers to LANDLORD an agreement in recordable form whereby such party assumes and agrees with LANDLORD to discharge all obligations of TENANT under the Lease, (2) has a net worth and operating experience at least comparable to that possessed by TENANT and any guarantor hereof as of the time of execution of the Lease, and (3) grants to LANDLORD, to secure the performance of such party's obligations under the lease, a security interest in such party's merchandise, inventory, personal property, fixtures, furnishings, and accounts receivable (and in the proceeds of all of the foregoing) with respect to its operations in the Demised Premises, and in connection thereof, such party shall execute such security agreements, financing statements and other documents (the forms of which are to be prepared by

LANDLORD) as are necessary to perfect such lien.

If the LANDLORD should exercise any of its remedies hereunder, TENANT shall be liable for and shall pay to LANDLORD the costs of removing and storing TENANT's or other occupant's property; the costs of repairing, altering, remodeling or otherwise putting Demised Premises into condition acceptable to a new tenant or tenants; real estate commissions actually paid; that portion of the leasing commission paid by LANDLORD applicable to the unexpired term of the Lease, if applicable, and all reasonable expenses incurred by LANDLORD, including attorney's fees.

If the Lease should be terminated, or the Lease term should expire, LANDLORD shall have the immediate right thereafter to re-enter the Demised Premises and to remove all persons and property therefrom. Such property may be stored in a public warehouse or elsewhere at the cost of and for the account of TENANT. In such event, LANDLORD shall not be deemed guilty of trespass or become liable for any loss or damage which may be occasioned thereby.

The rights and remedies granted herein to LANDLORD are distinct, separate and cumulative remedies, and the exercise of any of them shall not be deemed to exclude LANDLORD's right to exercise any or all of the others. All charges payable by TENANT under the terms of the Lease shall be deemed rent for the purpose of LANDLORD exercising its remedies.

No waiver of any covenant or condition or of the breach of any covenant or condition of the Lease shall be taken to constitute a waiver of any subsequent breach of such covenant or condition nor to justify or authorize the nonobservance of any other occasion of the same or of any other covenant or condition hereof, nor shall the acceptance of rent by LANDLORD at any time when TENANT is in default under any covenant or condition hereof be construed as a waiver of such default or of LANDLORD's right to terminate the Lease on account of such default, nor shall any waiver or indulgence granted by LANDLORD to TENANT be taken as an estoppel against LANDLORD, it being expressly understood that if any time TENANT should be in default in any of its covenants or conditions hereunder, an acceptance by LANDLORD of rent during the continuance of such default or the failure on the part of LANDLORD promptly to avail itself

such other rights or remedies as LANDLORD may have shall not be construed as a waiver of such default, but LANDLORD may at any time thereafter, if such default continues, terminate the Lease on account of such default.

LANDLORD shall not be in default unless LANDLORD fails to perform obligations required of LANDLORD within a reasonable time, but in no event later than fifteen (15) days after written notice by TENANT to LANDLORD, specifying wherein LANDLORD has failed to perform such obligations provided, however, that if the nature of LANDLORD's obligation is such that more than fifteen (15) days are required for performance, LANDLORD shall not be in default if LANDLORD commences performance within such fifteen (15) day period and thereafter diligently prosecutes the same to completion.

TENANT hereby acknowledges that late payment by TENANT to LANDLORD of rent and other sums due hereunder will cause LANDLORD to incur costs not contemplated by the Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of rent or any other sum due from TENANT shall not be received by LANDLORD or LANDLORD's designee within ten (10) days after such amount shall be due, TENANT shall pay to LANDLORD a late charge equal to five (5%) percent of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of costs LANDLORD will incur by reason of the late payment of TENANT.

19. **LANDLORD SECURITY.** To secure the payment of all rent and other sums of money due and to become due and the faithful performance of the Lease by TENANT, TENANT hereby grants to LANDLORD an express first and prior lien and security interest on all property (including fixtures, equipment, chattels and merchandise) which may be placed in the Demised Premises, and also upon all proceeds of any insurance which may accrue to the TENANT by reason of destruction of or damage to any such property. Such property shall not

be removed therefrom without written consent of LANDLORD until all arrearages in rent and other sums of money then due to LANDLORD hereunder shall first have been paid. This lien and security interest is given in addition to the LANDLORD's statutory lien and shall be cumulative thereto. Consequently with the execution of the Lease (or later if requested by LANDLORD at its discretion), TENANT shall execute and deliver to LANDLORD Uniform Commercial Code Financing Statements in sufficient form so that when properly filed, the security interest hereby given shall be perfected. The lien and security interest created hereby shall be terminated when all of the rent and other sums of money becoming due during the Lease term shall have been paid in full.

**20. SUBORDINATION AND ATTORNMENT.** The Lease, at LANDLORD's option, shall be subordinate to any ground lease, mortgage or any other hypothecation for security now or hereafter placed upon the real property of which the Demised Premises are a part and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. If any mortgagee or ground lessor should elect to have the Lease prior to the lien of its mortgage or ground lease, and should give written notice thereof to TENANT, the Lease shall be deemed prior to such mortgage or ground lease, whether the lease is dated prior or subsequent to the date of said mortgage or ground lease.

TENANT agrees to execute any documents required to effectuate such subordination or to make the Lease prior to the lien of any mortgage or ground lease, as the case may be, and failing to do so within ten (10) days after written demand, does hereby make, constitute and irrevocably appoint LANDLORD as TENANT's attorney in fact and in TENANT's name, place and stead, to do so.

Upon request of LANDLORD, TENANT shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by LANDLORD covering the Demised Premises, attorn to the purchaser upon any such foreclosure of sale and recognize such purchaser as LANDLORD under the Lease.

21. **TENANT ESTOPPEL CERTIFICATE.** TENANT shall at any time upon not less than ten (10) days prior written notice from LANDLORD execute, acknowledge and deliver to LANDLORD a statement in writing: (1) certifying that the Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that the Lease, as so modified is in full force and effect) and the date to which the rent and other charges are paid in advance, if any; (2) acknowledging that there are not, to TENANT's knowledge, any uncured defaults on the part of LANDLORD, or specifying such defaults if any are claimed; and (3) otherwise be in a form reasonably acceptable to LANDLORD. Any such statements may be conclusively relied upon by any prospective purchaser or existing or prospective encumbrancer of the Demised Premises.

If LANDLORD desires to finance, refinance, or sell the Demised Premises, or any part thereof, TENANT hereby agrees to deliver to any lender or purchaser designed by LANDLORD such financial statements of TENANT as may be reasonably required by such lender or purchaser. All such financial statements shall be received by LANDLORD and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

22. **NOTICES.** All notices required to be served upon LANDLORD shall be served by registered or certified mail, return receipt requested, to: CITY OF FORT PIERCE, Attention: City Manager, P.O. Box 1480, Fort Pierce, Florida 34954, with a copy to the Office of the City Attorney, P.O. Box 1480, Fort Pierce, Florida 34954, or such other place as LANDLORD may designate in writing. All notices required to be served upon TENANT shall be served by hand delivery or registered or certified mail, return receipt requested to: LITTLE JIM'S BAIT & TACKLE, INC., Richard A. King, 6502 Santa Clara Boulevard, Fort Pierce, Florida 34951, with a copy to ROBERT J. GORMAN, ESQ., 1209 Delaware Avenue, Ft. Pierce, FL 34950, or such other place as TENANT may designate in writing. All such notices shall be deemed to have been duly given, delivered, or served if and when hand delivered or deposited in the U.S. Post Office, postage prepaid, whether evidence of delivery received is obtained or not obtained.

23. **ACCESS TO PROPERTY.** During the term of this Lease, and any

renewal or extension thereof, TENANT shall permit LANDLORD and the agents and representatives of LANDLORD access to the leased property and licensed area at all reasonable times deemed necessary for the purpose of this Lease, including inspection of all work being performed in connection with the construction of improvements thereon, the management and operation of the facilities and to assure compliance with all ordinances, statutes and rules and regulations of federal, state and local agencies having jurisdiction.

24. **GENERAL PROVISIONS.** The following general provisions shall be an integral part of this Lease:

a. TENANT shall not record the Lease without LANDLORD's prior written consent, and any such recordation shall, at the option of LANDLORD, constitute a non-curable default of TENANT.

b. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship of principal and agent or of partnership or of joint venture between the parties hereof. Neither the method of computation of rent, nor any other provisions contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of LANDLORD and TENANT.

c. The invalidity of any provision of the Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provisions hereof.

d. Time is of the essence.

e. The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

f. Whenever a period of time is prescribed for action to be taken by LANDLORD, LANDLORD shall not be liable or responsible for and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of LANDLORD.

g. Upon TENANT paying the rent reserved hereunder and observing and performing all the covenants, conditions and provisions on TENANT's part to be observed and performed hereunder, TENANT shall have quiet possession of the Demised Premises, for the entire Lease term, subject to all the provisions of the Lease.

h. Each provision performable by TENANT shall be deemed both a covenant and a condition. The Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. The Lease may be modified in writing only, signed by the parties in interest at the time of modification.

i. Subject to the provisions hereof restricting assignment or subletting by TENANT and regarding LANDLORD's liability, this Lease shall bind the parties, their personal representatives, successors and assigns. The Lease shall be governed by the laws of the State of Florida.

j. The terms "LANDLORD" and "TENANT", as used herein, denote both singular and plural and all genders. Where "TENANT" consists of more than one person, whether natural or artificial, all the persons constituting "TENANT" shall be jointly and severally liable for all obligations to be performed by TENANT herein.

k. The Effective Date of the Lease shall be March 1, 2010.

l. All terms, covenants, and conditions herein contained, to be performed by TENANT, shall be performed at its sole cost and expense, and if LANDLORD shall pay any sum of money or do any act which requires the payment of money, by reason of the failure neglect or refusal of TENANT to perform such term, covenant, or condition, the sum of money so paid by LANDLORD shall be deemed additional rent and shall be payable to TENANT with the next succeeding installment of rent together with such interest as may have accrued thereon.

m. Any amount due to LANDLORD not paid when due shall bear interest at the maximum rate allowable by law accruing from the due date.

n. Notwithstanding anything to the contrary provided in the Lease, it is specifically understood and agreed by LANDLORD and TENANT that there shall be absolutely no personal liability on the part of LANDLORD, or its

shall be absolutely no personal liability on the part of LANDLORD, or its successors, or any partners or corporate shareholders of LANDLORD, or its successors, with respect to any of the terms, conditions and covenants of the Lease, and that TENANT shall look solely to the interest of LANDLORD in the premises for the satisfaction of each and every remedy of TENANT in the event of any breach by LANDLORD of any terms, conditions and covenants of the Lease to be observed or performed by LANDLORD.

25. **JOINT VENTURE.** It is specifically understood and agreed that nothing in this Lease shall be construed as creating a joint venture, partnership or other relationship between the parties to the agreement other than LANDLORD and TENANT.

26. **ATTORNEY'S FEES AND COSTS.** The prevailing party shall be entitled to an award of all costs, charges, and expenses, including the fees of counsel, agents and others retained by such party and incurred in enforcing either party's obligations hereunder or in any litigation or appellate proceedings.

27. **PAYMENT.** No payment by TENANT or receipt of payment by LANDLORD of an amount less than the full amount then due LANDLORD under this Lease shall be construed as anything other than a partial payment of the sum then due and owing. No endorsement or statement on any check or letter or any form of payment or accompanying documents shall be deemed to be an accord and satisfaction or other form of settlement, and LANDLORD may accept any such payment without prejudice to its rights to recover the balance of any sums due and owing under this Lease or to pursue any other remedy permitted under this Lease or Florida law.

28. **RADON GAS.** Pursuant to Fla. Stat. §404.046(8), Radon is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the St. Lucie County Public Health Unit.

29. **INSPECTION.** LANDLORD or its agents shall have the right to enter the

any other purpose not inconsistent with the terms and provisions of this Lease.

30. **PARTIAL INVALIDITY.** In the event any term, provision, or condition of this Lease shall be adjudged, decreed, held, or ruled to be invalid, such provision or a portion thereof shall be deemed severable, and it shall not invalidate or impair this Lease as a whole or any other provision of this Lease.

31. **TIME.** Time is of the essence of this Lease and every term and provision of this Lease.

32. **LEASE NOT RECORDABLE.** Neither this Lease nor any notice of memorandum thereof, except such instrument as maybe required by LANDLORD from TENANT shall be recorded in any public records.

33. **ENTIRE AGREEMENT.** This Lease contains the entire and sole agreement between the parties hereto relative to the rental of the leased premises and it may be modified only by an agreement in writing executed by LANDLORD and TENANT with the same formalities as this LEASE. No surrender of the leased premises or of the remainder of the term of this Lease shall be valid unless accepted by LANDLORD in writing. This agreement shall be interpreted and enforced under the laws of the State of Florida. It is agreed and understood that this agreement has been negotiated and drafted jointly and is not to be construed against any party.

IN WITNESS WHEREOF, the parties hereto have signed, sealed, and delivered this Lease as of the day and year first above written.

WITNESS AS TO LANDLORD

ATTEST:



Cassandra Steele, City Clerk

LANDLORD

CITY OF FORT PIERCE

By:

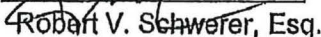


Robert J. Benton, III, Mayor

Date: May 25 2010

APPROVE AS TO FORM  
AND CORRECTNESS

By:

  
Robert V. Schwefel, Esq.  
City Attorney

City Attorney

WITNESSES AS TO TENANT

[Signature]

TENANT:

LITTLE JIM BAIT & TACKLE, INC.

By: [Signature]  
Richard A. King, President

Timothy M. McGuire

Print name

Date: 5-3-10

Kimberly Thompson  
Kimberly Thompson

Print name

WITNESSES AS TO GUARANTOR:

GUARANTOR:

[Signature]

RICHARD A. KING and RITA KING  
[Signature]  
Richard A. King

Timothy M. McGuire

Print name

Kimberly Thompson  
Kimberly Thompson

Print name

Rita A. King  
Rita A. King

**GUARANTEE**

**THE UNDERSIGNED**, as Guarantor, guarantees all of the obligations of the TENANT under that certain Lease dated the \_\_\_\_\_ day of March, 2010, between **CITY OF FORT PIERCE, FLORIDA**, a Florida municipal corporation, as LANDLORD, and, **LITTLE JIM BAIT AND TACKLE, INC.**, a Florida Corporation, as TENANT, for the Demised Premises identified therein and located at 601 North Causeway Drive, Fort Pierce, FL 34949, adjacent to the City Marina of the City of Fort Pierce, Florida.

The undersigned, jointly and severally, further confirm and acknowledge the following:

1. The liability of the undersigned is absolute and unconditional irrespective of (i) any lack of validity or enforceability of the Lease; (ii) the existence of any property given as security for, or other guarantee of the Lease; or (iii) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the TENANT in respect of the Lease or the undersigned in respect of this Guarantee.
2. The undersigned has a monetary interest (direct or indirect) in TENANT, and/or in the conduct of the business to the Demised Premises.
3. The undersigned has executed this Guarantee to induce LANDLORD to lease the Demised Premises to TENANT.
4. With regard to obligations of TENANT to pay money, this Guarantee imposes on the undersigned a guarantee of payment and not of collection.
5. LANDLORD has the right to take action against one or more of the undersigned guarantors, if more than one, without affecting the obligations of any other of the undersigned guarantors not being proceeded against.

**WITNESS** our hands and seals this \_\_\_\_\_ day of March, 2010.

**WITNESSES:**

[Signature]

Timothy M McBurnis  
Print name

Kimberly Thompson

Kimberly Thompson  
Print name

**GUARANTOR:**

RICHARD A. KING and RITA KING

[Signature]  
Richard A. King

5-3-10  
Rita King

Date: Rita King

***EXHIBIT "A-1"***

The Demised Premises is legally described as:

35 34 40 FROM NW COR OF SEC RUN S 89 DEG 49 MIN 01 SEC E  
1556.56 FT, TH S 00 DEG 10 MIN 59 SEC W 1908.70 FT TO POB, TH N  
58 DEG 59 MIN 38 SEC E 166.32 FT, THS 75 DEG 40 MIN 00 SEC E 200  
FT, TH S 54 DEG 07 MIN 50 SEC W 159.37 FT TO HIGH WATER/VEG  
MARK, TH MEANDERING SD HW MARK SWLY 218.96 FT MIL, TH N 35  
DEG 54 MIN 18 SEC W 72.65 FT, TH N 32 DEG 50 MIN 14 SEC E 76.58  
FT TO POB

as generally depicted on the aerial, Exhibit "A-2"

**SCHEDULE "A"**

TENANT agrees to remove existing concrete boat ramp, which is in disrepair, and improve access area to same with additional parking subject to the City's Land Development Regulations.

TENANT agrees to remove all sunken vessels from the leased portion of the demised property and construct additional pitched-roof decking with outdoor seating to the southwest subject to the City's Land Development Regulations.

TENANT agrees to install new fuel pumping and storage facilities with at least gasoline stations subject to all Federal, State and Local codes and regulations.

TENANT agrees to construct at least five (5) additional boat slips on the leased portion of the demised property subject to all Federal, State and Local codes and regulations.

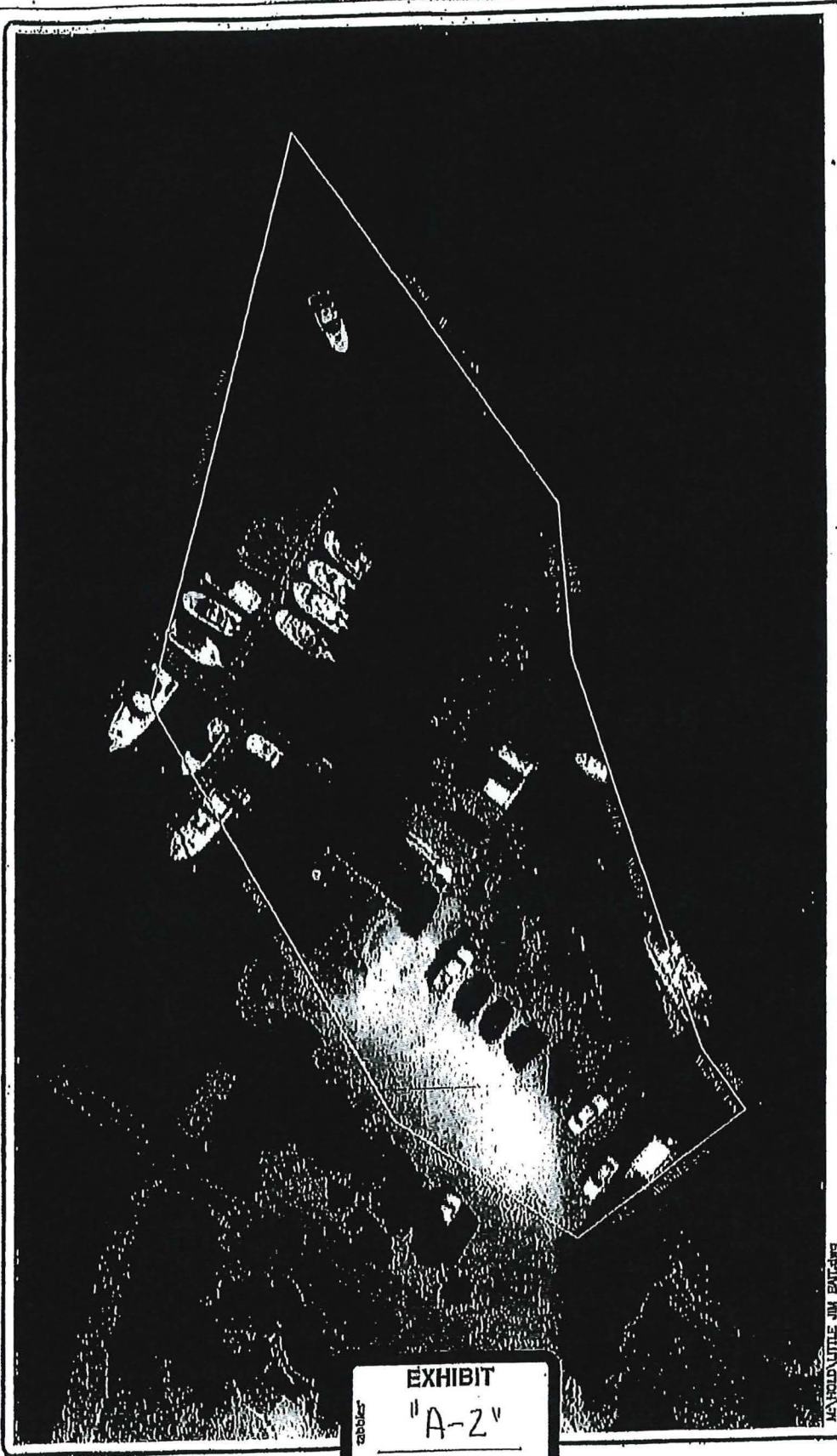


EXHIBIT  
"A-2"

McFOLD/LITTLE, JIM BAIRD



CITY OF FORT PIERCE  
DEPARTMENT OF ENGINEERING

A PARCEL OF LAND TO BE LEASED  
TO LITTLE JIM BAIT & TACKLE SHOP

DATE: 4-4-90  
SCALE: 1" = 20'  
BY: JMB



FIG. DATED BY: EXPLANATIONS

SHEET  
1  
OF  
7

RECEIVED

TIME \_\_\_\_\_

MAR 24 2015

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

CITY OF FORT PIERCE  
CITY MANAGER'S OFFICE

---

---

## MEMORANDUM

**TO:** Nicholas Mimms, Deputy City Manager

**FROM:** Robert V. Schwerer, City Attorney

**SUBJECT:** Little Jim Bait and Tackle – Lease Extension

**DATE:** March 24, 2015

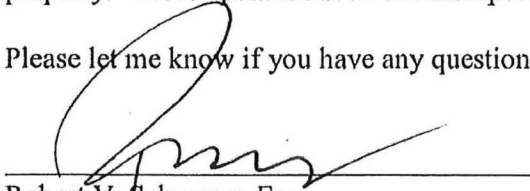
---

---

Attached please find the Lease Extension for the Little Jim Bait and Tackle lease, approved as to form and correctness. You may have this scheduled as a consent agenda item on the next City Commission agenda.

Please note that the Lease provided for a conditional ten (10) year lease extension. In an effort to update all of the City's leases of its properties, our insurance consultant is recommending some minor changes to the insurance provisions of our leases of City property. These updates have been incorporated in the attached.

Please let me know if you have any questions.



---

Robert V. Schwerer, Esq.  
City Attorney

/mlp

Attachment

cc: Robert J. Bradshaw, City Manager (*via email*)  
Linda Cox, City Clerk (*via email*)