

**GROUND LEASE AGREEMENT  
FOR PROPERTY LOCATED AT THE  
FERNANDINA BEACH HARBOR MARINA**

This GROUND LEASE AGREEMENT, hereinafter referred to as "Agreement", made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, made by and between the CITY OF FERNANDINA BEACH, FLORIDA, a municipal corporation, hereinafter referred to as "LESSOR" or "City", and ANNE COONROD D/B/A ATLANTIC SEAFOOD BAIT AND TACKLE whose address is \_\_\_\_\_, hereinafter referred to as "LESSEE".

W I T N E S S E T H:

WHEREAS, LESSOR owns, controls and operates the Fernandina Beach Harbor Marina, hereinafter referred to as "Marina", in the City of Fernandina Beach, County of Nassau, and State of Florida; and

WHEREAS, LESSEE has proposed to lease certain property from LESSOR at the LESSOR'S Marina for the purposes of a seafood and bait market and full-service restaurant/bar;

WHEREAS, LESSOR desires to make real property available to LESSEE at the Marina for the purposes of a seafood and bait market and full-service restaurant/bar;

NOW THEREFORE, for and in consideration of the Premises and the mutual benefits and covenants contained in this Agreement, the parties hereby agree as follows:

1. Leased Premises. LESSOR hereby leases to LESSEE, and LESSEE hereby leases from LESSOR, the following real property identified and on Exhibit "A" lease area, attached hereto, hereinafter referred to as the "Premises". The Premises is approximately 6,500 square feet of land area on City property on the Amelia River waterfront.

2. Term. The term of this Agreement is for a period of forty (40) years, commencing on the first (1st) day of the first month following the execution of this Agreement by both parties, and continuing for said term, unless earlier termination under the provisions of this Agreement.

Provided the LESSEE is not in default of any terms and conditions of this Agreement, the LESSEE may request to extend this Agreement for two additional ten (10) year terms. Such written notice must be given a minimum of 120 days before the end of the initial term and first renewal term. All options for extension of this Agreement term are subject to agreed performance standards to include continued capital investment and/or improvements and repair and mutual agreement of both parties. Such performance standards include:

a. At the 7 year anniversary of the Agreement, the LESSOR may conduct an inspection of the Premises to ascertain that facility and any improvements have been maintained

in a condition and appearance to present clean, safe and attractive facilities . Items considered will include, but not limited to, lighting, landscaping, drainage and signage. Any repairs required must be completed by the LESSEE prior to the 8 year anniversary date. If not completed, the LESSEE will be billed at 115% of cost for LESSOR to complete identified repairs.

b. At the 14 year anniversary of the Agreement, the LESSOR may conduct an inspection of the Premises to ascertain that facility and any improvements have been maintained in a condition and appearance to present clean, safe and attractive facilities. Items considered will include, but not limited to, lighting, landscaping, drainage and signage. Any repairs required must be completed by the LESSEE prior to the 15 year anniversary date. If not completed, the LESSEE will be billed at 115% of cost for LESSOR to complete identified repairs.

c. At the 19 year anniversary of the Agreement, the LESSOR may conduct an inspection of the Premises to ascertain that facility and any improvements have been maintained in a condition and appearance to present clean, safe and attractive facilities. Items considered will include, but not limited to, lighting, landscaping, drainage and signage. Any repairs required must be completed by the LESSEE prior to the 20 year anniversary date. If not completed, the LESSEE will be billed at 115% of cost for LESSOR to complete identified repairs.

d. At the 24 year anniversary of the Agreement, the LESSOR may conduct an inspection of the Premises to ascertain that facility and any improvements have been maintained in a condition and appearance to present clean, safe and attractive facilities. Items considered will include, but not limited to, lighting, landscaping, drainage and signage. Any repairs required must be completed by the LESSEE prior to the 25 year anniversary date. If not completed then LESSEE will be billed at 115% of cost for LESSOR to complete identified repairs.

e. At the 29 year anniversary of the Agreement, the LESSOR may conduct an inspection of the Premises to ascertain that facility and any improvements have been maintained in a condition and appearance to present clean, safe and attractive facilities. Items considered will include, but not limited to, lighting, landscaping, drainage and signage. Any repairs required must be completed by the LESSEE prior to the 30 year anniversary date. If not completed then LESSEE will be billed at 115% of cost for LESSOR to complete identified repairs.

f. After 30 years, the LESSOR may conduct an inspection of the Premises every five (5) years to ascertain that facility and any improvements have been maintained in a condition and appearance to present, clean, safe and attractive facilities. Items considered will include, but not limited to, lighting, landscaping, drainage and signage. Any repairs required must be completed by the LESSEE prior to the next year anniversary date after the City inspection. If not completed then LESSEE will be billed at 115% of cost for LESSOR to complete identified repairs.

g. At the expiration of the initial 40-year term and any extensions thereto, LESSEE may request a new lease. If LESSOR determines that the LESSEE has met its obligations under the

term of the preceding lease, and the LESSOR finds that a new lease is appropriate, the LESSOR may negotiate a new lease. The duration of the new lease is at the LESSOR'S option.

3. **Rent.** In consideration of the rights and privileges granted by this Agreement, LESSEE agrees to pay LESSOR the following rent from the date of commencement of this Agreement:

a. Rent for the use of real property based on a total lease area of 6,500 square feet at a lease rate of \$7.50 dollars per square foot per year. Initial annual ground rent is Forty Eight Thousand Seven Hundred Fifty Dollars and Zero Cents \$48,750.00.

This annual ground rent shall be converted to equal monthly payments to be made at the rate of \$4,062.00 per month, subject to applicable sales tax currently at 6.5% which may change from time to time, today in the amount of 284.34 for a total of \$ 4,346.34 per month and will commence on the first day of the first month following the issuance of the certificate of occupancy for the building constructed on the Premises. All payments are due and payable without notice on or before the first day of each month. The Tenant is solely responsible for the payment of all applicable ad valorem property taxes.

b. This ground rent rate will be reviewed each year by the LESSOR and ground rent rates, plus all applicable taxes, will be adjusted so as to maintain a fair rental rate based on change in the Consumer Price Index (CPI) -All Urban Consumers South Urban Region- All Items (base year 1982-84=100), as published by the United States Department of Labor-Bureau of Labor Statistics, an appraisal, market rent study or other method designated by LESSOR. Such CPI change will be computed each year after the completion of the month of July and any change will be implemented and effective with October rent payments of each year. Ground rental rates may be increased in accordance with CPI increases not to exceed 3%. An appraisal, market rent study or alternative method as designated by the LESSOR may be substituted every five (5) years for the CPI adjustment and any such adjustment will also be implemented in October of the applicable year. In no event, however, will the ground rent be less than the previous year's rental amount. The LESSEE is solely responsible for the payment of all applicable ad valorem property taxes.

4. Delinquency Charge. Any payments received after the fifth (5th) day of the month are subject to a delinquency charge of one and one-half percent (1 1/2%) per month beginning with the sixth (6th) day after payment is due.

5. Place of Payment. All payments due LESSOR from LESSEE must be made payable to the City of Fernandina Beach, and mailed or delivered to 1180 South 5th Street Extension, Fernandina Beach, Florida 32034.

6. Construction and Use of Premise. LESSEE is hereby granted the right to construct and operate a seafood market, bait, tackle shop and restaurant/bar in one building which footprint must be limited in size to 6,200 square feet. If construction on the Premises has not begun within one (1) year of the date of this Agreement, and completed (issuance by City of Certificate of Occupancy) within eighteen (18) months of the beginning of construction, this Agreement may be terminated by the LESSOR within 30 days written notice to LESSEE.

Delays in the start of construction or completion of construction due to City permitting, plans review and/or inspections will not be charged against LESSEE's deadlines set forth herein. The parties agree that the existing seafood market and bait shop located just north of the Premises will not be demolished until the new building constructed on the Premises has a certificate of occupancy.

a. All improvements, including the design thereof, on the Premises must be permitted by the LESSOR prior to installation or construction. The LESSEE is responsible for applying for and obtaining all necessary construction permits and licenses required by local, state and federal laws and regulations. The LESSOR will extend water and sanitary sewer service to the Premises. LESSEE understands and agrees that the Historic District Council (applying CRA guidelines) must approve building plans and site improvements prior to LESSEE applying for building permits.

b. Any lighting of the Premises must be approved by the LESSOR prior to installation, and not interfere with marina operations at the Marina.

c. All improvements must be constructed, graded and drained so as to direct all storm water which may fall on the Premises into approved disposal devices. The LESSOR must not contribute to storm water contamination and will take such steps and measures as are necessary to comply with all federal, state, and local regulations governing storm water discharge.

d. Any landscaping installed on the Premises is subject to approval by the LESSOR and must be installed and maintained by the LESSEE.

#### 7. Rights and Obligations of LESSEE.

a. Payments: LESSEE must meet and pay all expenses and payments in connection with the use of the Premises and the rights and privileges herein granted, including taxes, ad valorem taxes, permit fees, impact fees, license fees and assessments lawfully levied or assessed upon the Premises or property situated hereon, as well as any and all utilities used or consumed by LESSEE on the Premises, including, but not limited to, water, gas, electricity, internet, phone, sewer, and refuse services.

b. Agreement to Pay Taxes and Obligations: LESSEE must pay all lawful taxes and assessments, debts and obligations of every kind or nature, which, during the term hereof, may become a lien upon or which may be levied by the state, county, city or any other tax levying body, upon any taxable interest of the LESSEE acquired in the Agreement or any taxable possessory right which LESSEE may have in or to the Premises or facilities hereby leased or the improvements thereon, or on the LESSOR'S fee simple interest therein, by reason of its use or occupancy thereof or otherwise as well as all taxes or taxable property, real or personal, owned by LESSEE in and about said Premises, whether said taxes are assessed in the name of LESSEE or LESSOR.

c. Premise Upkeep: The LESSEE must, at its own expense, maintain and keep the Premises, including all improvements thereon including structures, mechanical, plumbing, roof systems,

electrical, lighting, landscaping, drainage, and signage in good condition and make all repairs necessary to keep and maintain the Premises, including all improvements thereon in good condition. The Premises and all buildings, improvements, and property thereon must be maintained in a safe, clean and sanitary condition. The LESSOR must require maintenance and needed repairs to be made in a timely manner.

d. **Access:** LESSEE must have at all times the right of ingress to and egress from the rented Premises. To ensure this right, the LESSOR must make all reasonable efforts to keep adjacent areas to the rented Premises free and clear of all hazards and obstructions, natural and manmade.

e. **Signs:** During the term of this Agreement, LESSEE has the right, at its expense, to place in or on the Premises, a sign or signs. Said sign or signs must be of a size, shape and design, and at a location or locations, approved by LESSOR and must conform to the City's sign code. LESSEE is responsible for all permits. Notwithstanding any other provision of this Agreement, said sign(s) remain the property of LESSEE. LESSEE must remove, at its expense, all lettering, signs and placards so erected on the Premises at the expiration of the term of this Agreement.

f. **Compliance with Applicable Laws, Rules and Regulations:** Notwithstanding other requirements contained herein, the LESSEE at its sole cost and expense agrees to and must comply with all applicable ordinances, laws, rules and regulations established by federal, state, and local government agencies or by City.

g. **Compliance with Environmental Law, Rules and Regulations:** LESSEE expressly represents, covenants, warrants, guarantees, and agrees that it must fully comply with all federal, state and local laws, ordinances, rules and regulations protecting the environment. Any cost or expense to remain or to be compliant with applicable environmental rules and regulations are the responsibility of the LESSEE. LESSEE agrees to keep themselves informed of future changes in the existing environmental laws.

#### 8. Leasehold Improvements.

a. This initial review does not constitute review for the purposes of obtaining City permits. LESSEE is required to obtain all permits from governmental agencies as may be required, including the City, and is solely responsible for all costs relating to permitting the proposed improvements, including impact fees.

b. Any such improvements made by LESSEE remain the property of the LESSEE until the expiration of this Agreement and any extensions or renewals thereof but which must remain on the property until the expiration or termination of this Agreement, at which time such improvements become the property of LESSOR. LESSEE must at all times maintain all improvements constructed on the property in good condition. Upon expiration or termination of this Agreement, the LESSEE must execute any and all documentation necessary to transfer clear title to the leasehold improvements, free of any lien or encumbrance, to LESSOR.

c. LESSEE must not permit any mechanic's or other liens to be placed upon the Premises,

at any time, except that LESSEE is permitted to mortgage its leasehold improvements to be constructed on the Premises by LESSEE. LESSOR will subordinate its interest to such Leasehold Mortgage with proper documentation, after review and approval by the City Attorney. All documentation regarding any leasehold mortgage must be reviewed and approved by the LESSOR prior to finalization of documents.

d. LESSEE must provide payment and performance bonds in amounts and form as approved by LESSOR, prior to commencement of construction.

9. Insurance. LESSEE must obtain and maintain continuously in effect at all times during the term of this Agreement and any renewal terms, at LESSEE'S sole expense, the following insurance:

a. Comprehensive general liability insurance: Insurance Services Office Form CG 00 01 covering commercial general liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than Two Million Dollars (\$2,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit applies separately to the Premises or the general aggregate limit is twice the required occurrence limit.

b. Workers' Compensation insurance as required by the State of Florida, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.

c. Property insurance against all risks of loss to any LESSEE improvements or betterments, at full replacement cost with no coinsurance penalty provision.

d. For any claims related to this Agreement, the LESSEE's insurance coverage must be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the LESSOR, its elected officials, employees and volunteers. Any insurance or self-insurance maintained by the LESSOR, must be excess of the LESSEE's insurance and does not contribute with it.

e. The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the Premises and all improvements thereon.

f. LESSEE hereby grants to LESSOR a waiver of any right to subrogation which any insurer of said LESSEE may acquire against the LESSOR by virtue of the payment of any loss under such insurance. LESSEE agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the LESSOR has received a waiver of subrogation endorsement from the insurer.

g. Insurance is to be placed with insurers authorized to conduct business in the state of Florida with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to LESSOR.

h. Copy of annual insurance certificate(s) must be attached as Exhibit "B" hereto and must

be provided to LESSOR annually. The LESSOR reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

i. The insurance specified herein must name LESSOR as an additional insured with instructions that the insurance carrier will notify LESSOR if the LESSEE defaults on premium payments, and requires that the insurance carrier notify LESSOR thirty (30) days prior to any event leading to cancellation of the policy.

10. Indemnification. LESSEE agrees to assume liability for and indemnify, hold harmless, and defend the LESSOR, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising directly or indirectly out of or in connection with any negligent and/or deliberate act or omission of LESSEE, its officers, employees, agents, and representatives. LESSEE's liability hereunder must include all attorney's fees and costs incurred by the LESSOR in the enforcement of this indemnification provision. This includes claims made by the employees of LESSEE against the LESSOR and LESSEE hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision will survive termination of this Agreement and must not be limited by the amount of any insurance required to be obtained or maintained under this Agreement. Nothing contained in the foregoing indemnification must be construed to be a waiver of any immunity or limitation of liability the LESSOR may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

11. Assignment or Sublease. This Agreement, or any part thereof, may not be assigned, transferred or subleased by LESSEE, by process or operation of law or in any other manner whatsoever, without the prior written consent of LESSOR which consent shall not be unreasonably withheld. Prior to issuing any written consent, LESSOR may demand such information it may require to adequately judge whether the proposed assignee, transferee or sub-lessee can adequately perform the duties of the LESSEE under this Agreement.

12. Independent Contractor. In its use of the Premises, LESSEE acts as an independent contractor and not as an agent of LESSOR.

13. Non-Discrimination. Notwithstanding any other inconsistent provision of this Agreement, during the performance of this Agreement, LESSEE, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration for this Agreement, does hereby covenant and agree, as a covenant running with the land, that:

a. No person on the grounds of race, color, religion, sex, or national origin may be excluded from participating in, denied the benefits of, or otherwise be subjected to discrimination, in the use of the Premises.

b. In the furnishing of services on, over or under the Premises, no person on the grounds

of race, color, religion, gender or national origin may be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

14. Termination. This Agreement is subject to termination by either party in the event of any one or more of the following:

a. The abandonment of the Premises;

b. The default by either party in the performance of any of the terms, covenants and conditions of this Agreement, and the failure of such defaulting party to remedy or to undertake to remedy to the other party's satisfaction such default for a period of thirty (30) days after receipt of notice from the non-defaulting party to the defaulting party to remedy same. This includes the failure of the LESSEE to complete the proposed improvements within the time frames as set forth herein;

c. Damage to or destruction of all or a material part of the Premises or Marina facilities necessary to the operation of LESSEE'S business;

d. The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Marina, or any substantial part thereof, in such a manner as to restrict substantially LESSEE from conducting its business operations for a period in excess of ninety (90) days;

e. LESSOR is entitled to terminate this Agreement upon the filing of a voluntary petition in bankruptcy by LESSEE, including a reorganization plan, a general or other assignment for the benefit of creditors, adjudication as a bankrupt, or if a receiver is appointed for the property or affairs of LESSEE and such receivership is not vacated within thirty (30) days after the appointment of such receiver;

f. LESSOR is entitled to terminate this Agreement upon the conviction of LESSEE or any of LESSEE'S members or officers, of any crime involving moral turpitude and relating to this Agreement of LESSEE'S business operations hereunder;

g. LESSEE has the right at any time to terminate this Agreement and its obligations hereunder, by conveying to LESSOR the title to the improvements constructed on the Premises, free and clear of any lien or encumbrance, provided that LESSEE has properly maintained said property and it is in as good condition as when originally constructed, ordinary wear and tear excepted, and provided, further, that the obligations regarding accumulated rent and indemnification must specifically survive termination.

15. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties, and as of its effective date supersedes all prior or independent contracts or agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both parties.

16. Severability. If any substantive provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction and such declaration results in a substantial failure of consideration for either party, the entire Agreement shall be subject to termination by such party. Otherwise, such declaration shall not be cause for termination of this Agreement, but only such void or illegal provision shall be canceled or deemed to be of no effect.

17. Notice. Any notice given by one party to the other in connection with this Agreement must be in writing and must be sent by certified mail, return receipt requested, postage prepaid, addresses as follows:

If to LESSOR, address to:

City Manager  
City of Fernandina Beach  
204 Ash Street  
Fernandina Beach, FL 32034

If to LESSEE, address to:

Anne T. Coonrod  
3017 Riverside Drive  
Fernandina Beach, FL 32034

Notices will be deemed to have been received on the date of receipt as shown on the return receipt. It is the LESSEE'S responsibility to keep the address contained in this Agreement up to date and accurate.

18. Governing Law, Venue and Attorneys' Fees. This Agreement is to be construed in accordance with the laws of the State of Florida, with venue in Nassau County, Florida. In the event of any litigation between the parties regarding the breach and/or enforcement of this Agreement, the prevailing party is entitled to its reasonable attorneys' fees and costs, including at the appellate court level, from the non-prevailing party as determined by a court of competent jurisdiction.

19. Re-Entry. It is further understood and agreed between the parties hereto that in the event

of any breach of any covenant or agreement on the part of the LESSEE to be performed and provided, that if such breach is not remedied by the LESSEE after reasonable notice in writing to it by the LESSOR, the LESSOR may re-enter and terminate this tenancy by giving the LESSEE thirty (30) days written notice, to quit the Premises. LESSOR must at all times be entitled to recover by all lawful means any and all damages, including reasonable attorneys' fees and costs, sustained by it through the breach of any said covenants and agreements on part of the LESSEE to be performed.

20. Obligation Upon Termination. Upon termination of this Agreement, all obligations of either party hereunder to the other cease and terminate, except as specifically provided herein, and the LESSEE agrees it must immediately quit, surrender and return peaceable and quiet possession of the Premises, including all improvements, to the LESSOR in as good order and condition as existed at the time of the initial occupancy and only reasonable wear and tear being accepted.

21. Inspection. The LESSOR has the right to enter upon the Premises at reasonable intervals during regular business hours to inspect the Premises for compliance with the terms and conditions of the Agreement and federal, state and local laws and regulations. In case of emergencies, the LESSOR has the right to immediately enter the Premises.

22. Further Marina Development. LESSOR reserves the right to further develop or improve the Marina as it sees fit, regardless of the desires or view of the LESSEE, and without interference or hindrance. In addition, LESSOR must include restrictions in its other City ground leases at or near Marina that prohibits restaurants from being developed south of the Premises.

23. Non-Waiver. The failure of the LESSOR to insist upon strict performance of any of the terms, conditions or covenants herein set forth shall not be deemed a waiver of any rights or remedies that it may have and shall not be deemed a waiver of any breach or default by the LESSEE of the terms, conditions or covenants contained herein.

24. Radon Gas Notice: Pursuant to Florida Statutes Section 404.056(8), LESSOR hereby makes, and LESSEE hereby acknowledges, the following notification:

Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks 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 your county public health unit. LESSOR makes no representation or warranty with respect to the presence or absence of radon on the Premises, and LESSEE must undertake such inspection or testing as it deems necessary or convenient to assure itself as to the presence or absence of radon.

25. Lease Commencement Date: The commencement date of this Agreement is the date set forth in Section 2 above.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**“LESSOR”**

**“LESSEE”**

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
By: Anne Coonrod

\_\_\_\_\_  
By: Dale Martin  
Its: City Manager

Witnesses:

ATTEST:      ATTEST:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
By: Caroline Best  
Its: City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
By: Tammi E. Bach  
Its: City Attorney

**Attachments**

Exhibit "A" Lease Area- Legal Description of LESSEE'S Property and Sketch or Drawing of Description

Exhibit "B" Insurance Certificate(s) (Note: This certificate shows that the City has been named as an additional insured on the applicable policies).