

## LAND LEASE AGREEMENT

This Land Lease Agreement (hereinafter "Agreement") is made this \_\_\_\_ day of May 2020, by and between the CITY OF PUNTA GORDA, a Florida municipal corporation (hereinafter "Lessor"), whose mailing address is 326 West Marion Avenue, Punta Gorda, Florida and PUNTA GORDA BOAT CLUB, INC., a Florida Not For Profit Corporation (hereinafter "Lessee"), whose mailing address is P.O. Box 511055, Punta Gorda, FL 33955.

### RECITALS

WHEREAS, Lessor owns a tract of land platted as Shreve Park in Punta Gorda, Charlotte County, Florida; and

WHEREAS, Lessee has leased a portion of said land for the operation of a boat club facility and ancillary uses since July 5, 1961; and

WHEREAS, the initial lease agreement has been amended over the years by mutual consent of the parties for the purposes of allowing additional improvements and public uses as well as extending the lease term; and

WHEREAS, the current lease agreement will expire on April 21, 2021, and, the parties desire to enter into a new agreement to allow for additional improvements to the boat club facilities, upgrading of the utility infrastructure, construction of a Harborwalk, and to provide additional public access to the waterfront.

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

1. **LEASED PREMISES AND USE:** The Lessor owns real property located at 802 West Retta Esplanade, Punta Gorda, Florida, upon which Lessee has constructed certain improvements for the operation of a boat club and ancillary facilities. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the real property more particularly described in the Punta Gorda Boat Club Lease Area description and sketch attached hereto and incorporated herein as Exhibit "A" (hereinafter referred to as the "leased premises"). Lessee shall use the leased premises for any lawful purposes and shall provide on the leased premises appropriate and related services and activities similar to those services and activities which have been provided prior to the date of this Agreement, including the Punta Gorda Sailing Club and Coast Guard Auxiliary.

2. **TERM AND RENEWALS:** Lessor hereby grants to Lessee the right to exclusively rent, lease, operate and manage the leased premises upon the terms hereinafter set forth for an initial term of twenty (20) years beginning on May 1, 2021, and ending at 11:59 p.m. on, April 30, 2041 (hereinafter “Initial Lease Term”), with automatic one-year renewals thereafter subject to all of the terms and conditions herein contained.

3. **RENT:** Lessee shall pay to Lessor, as rent for the first year, the amount of \$1.00 simultaneously with the execution of this Agreement and agrees to pay \$1.00 annually on or before the anniversary date for the duration of Agreement and any renewal thereof.

4. **PUBLIC PURPOSE:** The Lessor’s willingness to enter into this Agreement is based upon a finding that the Lessee’s proposed use and operation of leased premises is in the best interest of the City of Punta Gorda in its governmental capacity.

5. **LESSEE’S DUTIES AND RESPONSIBILITIES:**

- a. Lessee shall be responsible for all operational and maintenance expenses associated with its use of the leased premises.
- b. Lessee shall renovate the parking area, driveway, landscaping, and exterior of the existing building consistent with future exterior renovation of the city-owned Bayfront Center, and in keeping with spending constraints imposed by FEMA, and current building regulations. The Lessee shall use the architecture firm used by the Lessor for the Bayfront Center exterior, at an expense not to exceed \$10,000. Lessor’s Urban Design division shall provide guidance on design to ensure compatibility and cohesiveness of the two buildings.
- c. Lessee shall make necessary improvements to water and/or wastewater facilities serving the leased premises. Upon completion of the improvements, Lessee shall have responsibility for the water and wastewater facilities on the leased premises from the building to northern limit of the Harborwalk.
- d. A nominally 8-foot wide, unleased strip for public access will extend southwest along the leased premises adjacent to the basin seawall, and then along the southwest and northwest waterfronts. A visual demarcation between this public access and the leased premises shall be the responsibility of the Lessee. Lessee shall provide daily clean-up/custodial upkeep of the public access area on the peninsula surrounding the leased premises.

6. **LESSOR’S DUTIES AND RESPONSIBILITIES:**

- a. Lessor shall grant Lessee a non-exclusive occupation of easement as identified in Exhibit “B” attached hereto, for the reconfiguration of parking and driveway.

- b. Lessor shall be responsible for the long-term capital maintenance/repair of the public access area surrounding the leased premises as well as the adjacent Harborwalk and park property.
- c. Lessor shall not make any improvements in the public access area surrounding the leased premises which will impede the water view of the Lessee.
- d. Lessor shall be responsible for the water and wastewater facilities outside the leased premises including beneath the Harborwalk to the Berry Street and West Retta Esplanade intersection.
- e. Lessor grants the Lessee use of the main Bayfront parking lot, for up to 5 days per year for outdoor events, such as the Peace River Radio Association Hamfest and Peace River Power Squadron safety demo days, thru coordination with the lead tenant of the Bayfront Center.

7. **EMPLOYEES:** Lessee, including its employees, members and volunteers, are not employees or representatives of the City of Punta Gorda and Lessee is authorized to hire, discharge and supervise all labor and employees required for its use, operation, and management of the leased premises.

8. **INSURANCE:** Lessee shall keep in force during the term of this Agreement and any renewals thereof, at Lessee's sole expense, comprehensive general liability insurance in companies approved by Lessor (which approval shall not be unreasonably withheld) to protect against liability incidental to the use of or resulting from any acts occurring in or about the leasehold area, the liability under said insurance to be not less than One Million Dollars (\$1,000,000) for injury to one person in one accident, occurrence or casualty, and not less than a combined single limit of Two Million Dollars (\$2,000,000) for injuries to one or more persons and/or damage to property, in any occurrence. Lessee shall cause the Lessor to be named as an additional insured on any such policies. Lessee shall furnish proof of insurance prior to the initiation of any term under this Agreement. Lessee shall notify Lessor of any cancellation of insurance prior to the expiration of the term of this Agreement.

9. **ASSIGNMENT:** This Agreement may not be assigned, nor except as otherwise provided herein, be sublet without consent of Lessor.

10. **REMEDIES FOR BREACH OF AGREEMENT:** If either the Lessor or Lessee shall fail to perform, or shall breach any portion of this Agreement for thirty (30) days after a written notice specifying the performance required shall have been given to the party failing to perform, the party so giving notice may institute action in a court of competent jurisdiction to terminate this Agreement or compel performance of the Agreement.

11. **TERMINATION:**

- a. This Agreement shall be terminated immediately if the Lessee or Lessor shall be dissolved, become insolvent or bankrupt, or make assignment for the benefit of creditors.
- b. Lessor reserves the right to terminate this Agreement at any time during the Initial Lease Term upon a finding by the City Council that paramount public purpose exists for the leased premises. The Agreement shall be terminated under this part upon the provision of ninety (90) days written notice to Lessee and payment in full of the then full market value of the building improvements in the leased premises to Lessee. In the event that an equivalent waterfront activity center is constructed in Gilchrist Park, Lessee shall have first right of refusal to occupy the center, or portion thereof, to continue the operation of a boat club and Lessor shall not be required to pay Lessee for any building improvements in the leased premises upon termination of this Agreement under this part.
- c. During any annual renewal term thereafter, either party shall have the right to terminate the Agreement at the end of the then current term upon the provision of at least ninety (90) days written notice of intent to terminate.

12. **FUNDING**: Nothing contained herein tenders or concerns the funding of the day-to-day operation of the Punta Gorda Boat Club.

13. **NOTICE**: All rent payable and notice given under this Agreement to the Lessor shall be paid and given at City Hall, 326 West Marion Avenue, Punta Gorda, Florida 33950, or such other place as the Lessor shall specify in writing. All notice given under this Agreement to Lessee shall be given at P.O. Box 511055, Punta Gorda, FL 33955, or at such other place as the Lessee shall specify in writing.

14. **SIGNAGE**: The Lessee shall be permitted one ground level sign in its historic location adjacent to West Retta Esplanade. The sign shall be made consistent with the City of Punta Gorda branding by January 1, 2022.

15. **INDEMNIFICATION**: Lessee shall indemnify and hold harmless Lessor and its officers, directors, employees, agents, and successors (herein referred to as "Indemnified Parties") from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury, or damage to property occurring in or about, or arising out of the Lessee's use of the property. In the event any of the Indemnified Parties shall be made a party to any litigation or administrative action commenced by or against the Lessee, its agents, contractors or employees, Lessee shall protect and hold Indemnified Parties harmless from and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by

Indemnified Parties in connection with such action or actions. Lessee shall also pay all costs, expenses and reasonable attorney's fees which may be incurred or paid by Indemnified Parties in enforcing the covenants and conditions of this Agreement, whether incurred as a result of litigation or otherwise.

16. **ENTIRE AGREEMENT**: This Agreement contains and embodies the entire agreement of the parties hereto and no representations, inducements of agreements, oral or otherwise, between the parties not contained and embodied herein shall be of any force and effect, and the same may not be modified, changed or terminated in whole or in part orally or in any manner other than by an agreement in writing duly signed by all of the parties hereto.

17. **VENUE**: This Agreement shall be governed by and construed in accordance with Florida law. Venue for the purposes of any action brought to enforce or construe the Agreement shall lie in Charlotte County, Florida.

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IN WITNESS WHEREOF, the parties hereto have affixed their respective signatures on the date first written above.

**CITY OF PUNTA GORDA**

\_\_\_\_\_  
NANCY PRAFKE, Mayor

ATTEST:

\_\_\_\_\_  
KAREN SMITH, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
DAVID M. LEVIN, City Attorney

**PUNTA GORDA BOAT CLUB, INC.**

\_\_\_\_\_  
THOMAS W. MCDONOUGH, Commodore

WITNESSES:

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

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