

ORDINANCE NO. 2023-07

AN ORDINANCE OF THE CITY OF GULFPORT, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE GULFPORT YACHT CLUB; PROVIDING FOR THE REPEAL OF ORDINANCES, OR PARTS OF ORDINANCES IN CONFLICT HERE WITH, TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Gulfport Yacht Club, Inc., lease with the City provides, upon expiration, an option to renew for an additional period of time provided that the parties agree to renewal terms and conditions; and

WHEREAS, The Gulfport City Council find it is in the public interest of its citizens to enter into a new lease agreement with the Gulfport Yacht Club, Inc. as attached hereto and made part of this Ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GULFPORT, FLORIDA, HEREBY ORDAINS:**

**Section 1.**

The City Council hereby authorizes the City Manager to enter into a lease agreement with the Gulfport Yacht Club, Inc., as attached hereto and made part of this Ordinance.

**Section 2.**

If any portion or part of this ordinance is declared invalid by a court of competent jurisdiction, the valid remainder hereof shall remain in full force and effect.

**Section 3.**

All Ordinances, or parts of Ordinance in conflict herewith are hereby repealed to the extent of any conflict with this Ordinance.

**Section 4.**

This Ordinance shall become effective immediately upon final passage.

FIRST READING : July 18, 2023  
PUBLISHED : July 19, 2023  
SECOND READING/  
PUBLIC HEARING : August 1, 2023

  
\_\_\_\_\_  
Samuel Henderson, Mayor

I, Theresa M. Carrico, City Clerk of the City of Gulfport, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of law and the City Charter this 15 day of August, 2023.

ATTEST:

Theresa M. Carrico  
Theresa M. Carrico, City Clerk

**LEASE**

**BETWEEN THE CITY OF GULFPORT, FLORIDA  
AND  
GULFPORT YACHT CLUB, INC**

THIS LEASE AGREEMENT made and entered into this 21 day of August, 2023 by and between the CITY OF GULFPORT, FLORIDA, a municipal corporation (hereinafter called "LESSOR") and GULFPORT YACHT CLUB, INC., a Florida not-for-profit corporation (hereinafter called "Lessee"), and the parties hereto agree to the following terms and conditions, superseding any prior lease agreement between them, concerning the property described herein:

**1. PROPERTY DESCRIPTION**

The lessor does by these presents, lease and let to the lessee the following described property, the same being situated and located in the City of Gulfport, County of Pinellas, State of Florida: A parcel of land lying in the Southeast ¼ of section 33, Township 31 South, Range 16 East, located in the City of Gulfport, Pinellas County, Florida and being more particularly describes as follows:

Commence at the Northeast Corner of the Southeast ¼ of said Section 33; thence S 00 01'05"W, 679.16 feet; thence N 80 42'24" W, 517.28 feet to the point of beginning; thence S 00 04' 05"E, 301.11 feet to a point on the Pinellas county Bulkhead line; thence N 49 43' 48" W along said line, 196.39 feet; thence N 00 04' 05"E, along the Westerly boundary of the City of Gulfport Marina property 211.38 feet; thence S 89 53' 56" W, 150 feet; thence S 00 04' 05" W, 71 .54 feet to the Point of Beginning.

**2. LEASE TERM, RENEWAL, RENT**

The term of this lease is for a period of three (3) years, commencing July 1, 2023. Rent is due annually, on the commencement date of this lease and each subsequent anniversary thereof:

- |                         |             |
|-------------------------|-------------|
| • Year 1 – FY 2023/2024 | \$24,000.00 |
| • Year 2 – FY 2024/2025 | \$24,000.00 |
| • Year 3 – FY 2025/2026 | \$24,000.00 |

### **3. EXPENSES**

Lessee shall pay all utility charges, real estate taxes, license or permit fees, and any other fee or cost imposed by any political entity, division or agency of the United State of America, the State of Florida or Lessor. Lessee shall pay the applicable sales tax on all lease payments, which shall be in addition to the rent otherwise provided hereunder, unless Lessee provides Lessor with all proper documentation and verification for an exemption from said taxes.

Lessee shall be responsible for any and all expenses incurred to the 12 adjacent wet slips owned by the City of Gulfport and any/all costs incurred for access and maintenance of access to the wet slips or maintaining the operation of the wet slips.

### **4. USE, ASSIGNMENT, SUB-LETTING**

Lessee shall use the subject premises only for the conduct of its not-for-profit business of providing boats for use of its members and related activities. Lessee may make no other use of the premises without the written consent of the Lessor. Lessee shall not assign its rights or responsibilities under this lease, not sublet the subject property, without the written consent of the Lessor. Lessee shall not use the subject premises so as to constitute nuisance.

### **5. IMPROVEMENTS**

Lessee shall make no improvements or alterations to the subject property, including but not limited to the Club house, seawall, boat docks, without the written consent of Lessor. Any and all improvements must be made in accordance with all applicable laws and ordinances, including those related to site plan review and building permits. Lessee shall pay the costs for site plan review, license or permit fees, as applicable. Upon the expiration of the lease term or termination of this lease, Lessor shall be entitled to ownership and possession of the premises, together with any improvements or additions thereto, whether pre-existing this lease or added during the term hereof, and Lessee shall not be entitled to any compensation therefore. Lessee shall not allow any contractor's lien to be placed against the premises, and Lessor's issuance of building permits or approval of plans shall not constitute an acceptance of any contractor or laborer regarding such improvements.

### **6. MAINTENANCE, CONDITIONS OF PREMISES**

Lessee accepts the leased premises as is, and is satisfied with the condition of the premises. Lessee shall maintain the premises, including the building and all equipment or fixtures, in a good state of repair, at its expense. Lessee shall ensure that the premises, and Lessee's use thereof, is at all times in compliance with all applicable laws, ordinances, rules and regulations, including building, health and fire codes and environmental regulations. Lessee shall keep the basin clean, shall not allow the operation thereof to become a nuisance and shall observe all sanitation and other laws, ordinances, rules or regulation of the State of Florida, the United States and the City of Gulfport, concerning the operation and use of the subject property.

## **7. QUIET ENJOYMENT**

Lessor makes no covenant of quiet enjoyment for the subject property, and Lessor shall be under no obligation to Lessee to institute or defend any proceedings regarding Lessee's right to possession or quiet enjoyment of the leased premises. Lessor shall not be responsible for rebuilding or repairing the leased premises in the event of partial or total destruction thereof, from any cause. Lessee shall provide access to the leased premises to Lessor at any time.

## **8. INSURANCE**

Lessee shall maintain liability insurance on the Leased Premises with limits of not less than two million dollars (\$2,000,000.00) per person and three million dollars (\$3,000,000.00) per incident, with a deductible no greater than One Thousand Dollars (\$1,000.00). Such insurance shall include coverage for consumption or possession of alcoholic beverages on subject, consistent with Lessee's use thereof. Lessee shall maintain fire and flood insurance on the leased premises in an amount not less than the replacement costs for each such insurance. On each of the aforesaid insurance policies, Lessor shall be designated as an additional insured and loss-payee, as applicable and lessee shall provide Lessor with proof in insurance satisfactory to Lessor. No insurance policy shall be cancelable without the written consent of Lessor.

## **9. ALCOHOLIC BEVERAGES, CONCESSIONS**

Lessee shall be allowed limited use of alcoholic beverages on the leased premises; provided however, Lessee shall not allow the sale, distribution or possession of alcoholic beverages of any type on the leased premises, to or by anyone other than members of Lessee's organization and their guests. Lessee shall obtain all required licenses for Lessee's use of the subject premises, including the sale or distribution of alcoholic beverages, as required by law. Lessee shall not sell or distribute any goods or merchandise in competition with items sold by Lessor at the City Marina, except food and drink items sold from vending machines, only.

## **10. HARBOR BASIN, CHANNEL**

Lessee shall cooperate with the Lessor in its maintenance of the harbor basin, the channel and the channel marking. This cooperation may extend to, but not limited to, allowing access to the facilities for heavy equipment at the leased premises, allowing depth sounding of the harbor and channel, and the temporary relocation of boats and property to allow work to proceed.

## **11. TERMINATION**

If Lessee loses its status as a Florida not-for-profit corporation, Lessor may terminate this lease without notice. If Lessee defaults in the performance of the terms of this agreement, Lessor may terminate this lease and immediately re-enter the premises without notice. This lease shall be terminated if Lessee abandons or vacates the subject premises.

Notwithstanding the termination of this lease for any reason, Lessor shall have the right to maintain an action against Lessee for possession and/or damages, including unpaid rent, following Lessee's default in the performance of the terms of this lease.

"The City of Gulfport and associated parties shall observe and be in compliance with all applicable laws, ordinances, and rules and regulations of the State of Florida and the City of Gulfport during the conduct of official business with and /or in representation of the City of Gulfport. The City of Gulfport acknowledges it is the intent of the City Council in enacting Ord. 2014 -02 Chapter 26 of the City of Gulfport Code of Ordinances to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on age race color, religion national origin ancestry, disability, marital status, gender, gender identity or expression sexual orientation, or physical characteristic." **(As of September 2015 agreement). Failure of Lessee to abide by Chapter 26 of the City of Gulfport Code of Ordinances provides that the Lessor may terminate this lease immediately and immediately re-enter the premises without notice.**

## **12. INDEMNIFICATION**

Lessee shall indemnify and hold Lessor harmless from all claims, including the costs, attorneys' fees and expenses of defending against such claims, arising or alleged to arise from act, omission or use of the premises by Lessee or Lessee's agents, employees or contractors, or arising from any injury to the person or property of anyone on the leased premises during the term of this lease.

## **13. RADON GAS**

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 building of Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

## **14. NOTICES**

Any notices provided hereunder shall be mailed by certified U.S. mail, return receipt requested, and shall be effective upon deposit into the mail. Notices to Lessor shall be delivered to City Manager, City of Gulfport, 2401 53<sup>rd</sup> Street South, Gulfport, Florida 33787, and notices to Lessee shall be delivered to Gulfport Yacht Club, Inc. 4638 Del Rio Way South, Gulfport, Florida 33771.

## **15. ATTORNEYS' FEES**

In any action brought to enforce the terms of this lease or to recover possession of the leased premises, the prevailing party shall be entitled to recover reasonable attorneys' fees, both at the trial and all appellate levels.

**16. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement between the parties, and all prior representations are merged herein and not binding upon the parties. This agreement may only be modified in writing.

**17. MISCELLANEOUS**

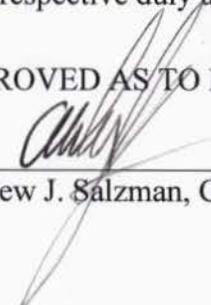
The headings used herein are for convenience only and shall not be considered in interpreting this agreement. Lessor's failure to act upon any default shall not constitute a waiver of Lessor's right to act upon that default or any other default hereunder. If any portion of this lease is declared to be invalid, the remaining portion thereof shall remain full force and effect.

**18. WET SLIP MEMBERS**

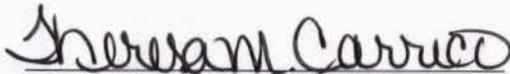
Lessee maintains all rights to GYC members of 12 adjacent wet slips. Wet Slip occupants must abide by all rules and bi-laws set aside by the Gulfport Yacht club, including all fees associated with membership of the Lessee.

IN WITNESS WHEREOF, the Lessor and Lessee affix their hands and seals, by and through their respective duly authorized agents, on the day, month, and year first above written.

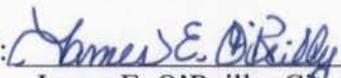
APPROVED AS TO FORM:

  
\_\_\_\_\_  
Andrew J. Salzman, City Attorney

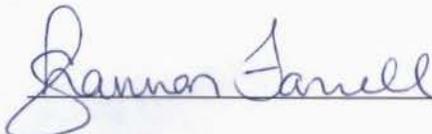
ATTEST:

  
\_\_\_\_\_  
Theresa M. Carrico, City Clerk

CITY OF GULFPORT  
A Municipal Corporation

BY:   
\_\_\_\_\_  
James E. O'Reilly, City Manager

WITNESSES:

  
\_\_\_\_\_  
As to Gulfport yacht Club, Inc.

GULFPORT YACHT CLUB, Inc.

BY:   
\_\_\_\_\_  
  
\_\_\_\_\_  
Title