

**LEASE OF PROPERTY AT WEST FERRY BY THE TOWN OF JAMESTOWN  
TO DUTCH HARBOR BOAT YARD, LLC.**

THIS INDENTURE OF LEASE, made and executed as of 21<sup>st</sup> <sup>Oct</sup> day of -October, 2020, by and between the Town of Jamestown, a Rhode Island municipal corporation, hereinafter called the "Lessor" and Dutch Harbor Boat Yard, LLC, hereinafter called the "Lessee".

That in consideration of the rent and covenants herein reserved and contained, and subject to the conditions hereinafter set forth, the Lessor does hereby demise and lease unto the Lessee the following described premises:

The Town of Jamestown ("Lessor") agrees to lease approximately 18,000 sq. ft. of real property at the westerly end of Narragansett Avenue in Jamestown, RI, ("Demise Premises") see "Exhibit A" for illustration of the Demised Premises, to Dutch Harbor Boat Yard, LLC ("Lessee") for boat storage and waterfront uses set forth herein and according to following terms and conditions.

TERMS OF LEASE

The term of the Lease for use of the Demised Premises by the Lessee shall be a five (5) year period beginning January 1, 2021 through June 15, 2026. This lease agreement contains an option for renewal for an additional five-year extension subject to mutually agreed upon terms and Town Council approval and will terminate on June 15, 2031.

The Lessee covenants and agrees to pay rent as follows:

RENT

The initial annual rent for use of the Demised Premises shall be payable according to the table of rent payment following at the Town Hall Finance Office, 93 Narragansett Avenue, Jamestown RI 02835 or at such other place as the Lessor may designate in writing (Rent increases annually at 3 percent per year):

Year 1	\$20,820	January 1, 2021 – December 31, 2021
Year 2	\$21,444 ✓	January 1, 2022 – December 31, 2022
Year 3	\$22,087 ✓	January 1, 2023 – December 31, 2023
Year 4	<del>\$23,431</del> <sup>23,749</sup>	January 1, 2024 – December 31, 2024
Year 5	\$23,431	January 1, 2025 – December 31, 2025
To Term End		
Partial	\$12,066 ✓	January 1, 2026 – June 14, 2026

The Lessor and Lessee agree that all boats shall be removed on or before June 14, 2026. The Lessor and Lessee acknowledge the Town may start the bidding process or requests for proposals any time after January 1, 2026, if the five-year extension is not utilized.

USE OF DEMISED PREMISES

Lessee uses the Demised Premises for boat storage only during the lease term. Lessor agrees not to reduce the area available for boat storage as the same is described in "Exhibit A", "Figure 1" and "Figure 2" during the term of this lease.

- Lessee is permitted to use the Demised Premises for boat storage no earlier than September 15<sup>th</sup> of each year. However, no more than 50% of the leased premises may be occupied prior to October 1<sup>st</sup>. Depicted in "Figure 1"
- Lessee shall remove all stored boats and equipment from the Demised Premises by June 14<sup>th</sup>, however no more than 50% of the leased premises may be occupied on June 1<sup>st</sup>. Should the Lessee not clear all boat storage equipment, jacks, lines, etc. and/or stored boats from this area by June 14<sup>th</sup> there will be a \$250 per day lease assessment for any such violation, unless arrangements have been made in advance of this date and agreed to by both parties.

#### OBLIGATIONS AND OPERATIONS OF LESSEE/LESSOR

##### **Lessee's Responsibilities**

- Lessee shall commission the existing Town of Jamestown docks and gangways, including pump-out station, no later than May 15<sup>th</sup> and decommission the existing Town of Jamestown docks, gangways and pump-out station no later than November 15<sup>th</sup>, except the Lessee shall not decommission in 2026.
- If a storm or other emergency event is imminent, Lessor shall decommission the pump out station and the lessee may be requested to decommission the touch & go docks. Any commission or decommission work shall be provided at a cost to the Lessor of (\$2,150.) per commissioning or decommissioning at the direction of the Town Administrator or his/her designee. Commencing January 1, 2022, the cost shall increase three percent (3%) during each remaining year of the lease term.
- Any additional commissioning or decommissioning other than as stated above, shall be performed by Lessee at the rate of (\$2,150.) per event only after a request submitted by the Town in writing. Commencing January 1, 2022, this cost shall increase yearly by three (3) percent. Lessee shall be the sole servicer of this performed work and if the lessee cannot perform said work, the Town reserves the right to perform this work using alternate methods or secure the services of the Lessee in accordance with the terms as noted in this section.
- Lessee shall be responsible for their own trash and recycling removal and that of its tenants on an annual basis, with dumpster and/or trash containers located on the Lessee's property.
- The Lessee maintains responsibility for any work required for winter storage of boats on the leased property, outside and exclusive of the annual work of maintenance performed by the Lessor.
- Lessee shall be solely responsible for the care and maintenance of the West Ferry Wharf surface including Demised Premises in "Exhibit A" for any additional work that may be required in

accordance with the use of that area for boat storage. (Annual care and maintenance and capital improvements of the West Ferry Wharf surface will be the responsibility of the Lessor.)

- Lessee shall be responsible to maintain in good condition the grass, surface and landscaping on the adjoining Town property to the Demised Premises.

#### **Lessor's Responsibilities**

- Lessor shall be responsible for repairs and maintenance to the Town of Jamestown docks, gangways, outhauls, and pump out facility. The Lessor shall maintain, manage and repair as required, the West Ferry bulked surfacing in the Demised Premises as depicted in "Exhibit A".
- Lessor shall be responsible for any cost associated with trash removal and recycling from the Town's property generated from the public use of said property.
- Lessor is solely responsible for the management, repair and maintenance of the public restrooms located at West Ferry located on the Lessor's property.
- Lessor shall be responsible for the completion of all major capital improvements to the Town property not within the Demised Premises, inclusive of the Town docks, outhauls, and wharf area, unless joint arrangements are established amongst the parties in addressing a specific need, deemed mutually beneficial to both parties. All such repairs must be approved by the Town Administrator and under certain circumstances additional approval of the Town Council may be required.

#### **FEES GENERALLY**

The Harbor Commission shall annually recommend to the Town Council a proposed schedule of fees as part of the annual operating and capital budget; and the Town Council shall establish such rates not later than March 15<sup>th</sup> each year. The Commission may charge fees for all mooring permits; for dock, storage rack, outhaul, and beach permits on town-owned property; for outhauls on riparian property, and for waiting and relocation list applicants. Higher fees may be charged for nonresident and commercial moorings and for other special situations. The Commission may assess late penalty fees provided these are indicated on, or enclosed with, the appropriate application forms.

#### **WEST FERRY DINGHY SLIPS**

West Ferry dinghy slip fees shall be established by the Jamestown Town Council by March 15<sup>th</sup> of each season. The location of the slips is from the town property on the town floating docks. All fees generated from seasonal dingy rentals shall be collected and retained by the Town (Lessor). The Lessee has no responsibility in the process of managing the dingy list(s), assigning slips or the collection of fees as may have been done in the past from time to time.

#### **WEST FERRY OUTHAULS**

West Ferry outhaul fees shall be established by the Jamestown Town Council by March 15<sup>th</sup> of each season. The fees for said outhauls shall be collected by Town (Lessor) with a list maintained by the Harbor

Master's Office on a first come/first serve basis for Jamestown residents, and if exhausted, an outhaul wait list on a first come/first serve basis for non-residents of Jamestown. The Lessee has no responsibility in the process of managing the list(s), assigning slips or the collection of fees as may have been done in the past from time to time. The Lessee may retain a West Ferry outhaul in accordance with all town-imposed regulations and fees.

#### **PUMP OUT STATION and TOWN DOCKS**

Lessor is responsible for the maintenance and management of the public pump out facility.

Lessee shall only be allowed to tie into the existing sewage line upon the granting of the appropriate Town approvals and permits and the payment of all applicable fees.

#### **ALTERATIONS BY LESSEE**

Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, in, to or on Demised Premises. The Lessee shall make no structural alterations to the Lessor's Demised Premises without the written consent of the Lessor. The Lessee shall save the Lessor harmless on account of any claim of mechanics or material men, or any liens in connection with any alterations, additions or improvements, and at the termination or expiration of this Lease will peaceably yield said premises and all additions thereto to the Lessor, and leave the same clean and in such repair, order and condition as the same are in at the commencement of the lease term.

#### **GOVERNMENTAL REGULATIONS**

Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Demised Premises, occasioned by or affecting the use thereof by Lessee.

The Lessee shall not use or occupy, or permit the Demised Premises to be used or occupied, in any unlawful manner, for any illegal purpose, in such manner as to constitute a nuisance, or for any use which is incompatible with Lessor's present adjacent business operations and, further, comply with the covenants and conditions attached hereto and made a part hereof. The lessee shall comply with all municipal, state or federal regulations concerning the conduct of its business, shall procure, at its own expense, all permits, licenses, etc., required by it, and shall hold harmless the Lessor from penalties and fines imposed upon the Lessor pursuant to any law, ordinance or governmental requirement by reason of the conduct by the Lessee of its business in the Demised Premises.

#### **ASSIGNMENT AND SUBLETTING**

Lessee shall not assign this lease or sublet any portion of the Demised Premises without the prior written consent of the Lessor. Any such assignment or subletting without consent shall be void and, at the option of the Lessor, may terminate this Lease.

The Lessee is responsible to manage the needs and requirements of any of their tenants that are authorized to be located on the Lessee's property.

#### **ENTRY AND INSPECTION**

Lessee shall permit Lessor or Lessor's agents to enter upon the Demised Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within

sixty (60) days prior to the expiration of this lease, if not renewed, to place upon the premises any usual "For Lease" signs, and permit persons desiring to lease the same to inspect the premises thereafter.

**INDEMNIFICATION OF LESSOR**

Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property occurring on the Demised Premises or any part thereof, unless any damage or injury occurs as a direct result of an act or omission of Lessor. Lessee agrees to hold Lessor harmless from any claim for damages.

**PUBLIC LIABILITY INSURANCE**

The Lessee agrees to defend, indemnify, protect, save and keep harmless the Town of Jamestown (Lessor) from any and all loss, cost, damage or exposure arising from the negligent acts or omissions of the Lessee in undertaking this lease agreement.

The Lessee will maintain in full force at all times workers' compensation insurance for all labor employed at the site. Workers' Compensation coverage must meet the statutory obligations of the State and supply evidence of the same to the Lessor.

The Lessee will maintain in full force at all times during this engagement general liability insurance in the minimum amount of \$1,000,000 per person and \$2,000,000 per occurrence for all damages on account of personal injuries and/or property damage arising out of an occurrence. The Lessee will provide evidence of its general liability policy to the Lessor naming the Lessor as an additional insured to the policy.

The Lessee will maintain in full force at all times during this engagement auto/watercraft liability insurance covering all owned vehicles, hired vehicles, non-owned vehicles or watercraft in the minimum amount of \$1,000,000 per occurrence for all damages on account of personal injuries and/or property damage. The Lessee will provide evidence of its auto/watercraft liability policy to the Lessor naming the Town of Jamestown (Lessor) as an additional insured to the policy.

**DESTRUCTION OF PREMISES**

In the event of partial destruction of the Demised Premises, during the term hereof, from any cause, Lessor may elect to repair the same, provided that such repairs can be made within sixth (60) days under existing governmental laws and regulations, but such destruction shall not terminate this Lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the premises. In the event that repairs cannot be made within sixty (60) days, Lessor, may, at its option, either make the repairs within a reasonable time, this Lease continuing in effect with the rent proportionately abated as aforesaid, or terminate the Lease.

**LESSOR'S REMEDIES ON DEFAULT**

If Lessee defaults in the payment of rent, or any additional fees, or defaults in the performance of any of the other covenants or conditions hereof, Lessor shall give Lessee notice of such default and, if Lessee does not cure any such default within thirty (30) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within that period, if Lessee does not

commence such curing within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this lease. On the date specified in such notice the term of this Lease shall be terminated and Lessee shall then quit and surrender the demised premises to Lessor. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Demised Premises by any lawful means and remove Lessee or other occupants and their effects. If the Lessee shall be declared insolvent according to law, or if a receiver or other similar officer shall be appointed to take charge of the Lessee's property, or a substantial part thereof, then, and in each of the said cases, the Lessor lawfully may (notwithstanding any license of any former breach of covenant or waiver of the benefit hereof or consent in a former instance) immediately or at any time thereafter while such default or other situation as aforesaid continues, and without further demand or notice, enter into and upon the Demised Premises or any part thereof in the name of the whole and repossess the same and expel the Lessee and those claiming through or under the Lessee and remove its effects, at Lessee's expense, without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant; and upon entry as aforesaid, this Lease shall terminate, and the Lessee shall remain obligated for all rental monies due for the remainder of the term.

No failure to enforce any term of this Lease shall be deemed a waiver.

**LESSEE'S REMEDIES ON DEFAULT**

If Lessor defaults in the performance of any of the covenants or conditions hereof, Lessee shall give Lessor notice of such default and, if Lessor does not cure any such default within thirty (30) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within that period, if Lessor does not commence such curing within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessee may withhold rent payments and apply the same to the same for repairs and maintenance to the pilings, revetments and bulkheads that are the responsibility of Lessor hereunder located on the Demised Premises.

**ATTORNEY'S FEES**

In case suit should be brought for the recovery of the Demised Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the demised premises, by either party, the Town shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.

**ENTIRE AGREEMENT**

The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED THIS LEASE IN TRIPPLICATE ON THE DATE FIRST ABOVE WRITTEN:

Town of Jamestown

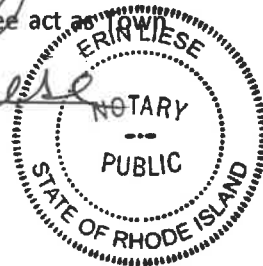
By:

  
Jamie A. Hainsworth, Town Administrator  
Duly Authorized

STATE OF RHODE ISLAND

COUNTY OF NEWPORT

In Jamestown in said County, on this 21 day of October, 2020 before me personally appeared the above-named Jamie A. Hainsworth, executing the foregoing instrument for and in behalf of said Town of Jamestown; to me known and known by me to be the party described in and who executed the foregoing instrument; and he acknowledged the same, by him so executed, to be his free act as Town Administrator, as aforesaid, and his free act and deed individually as well.

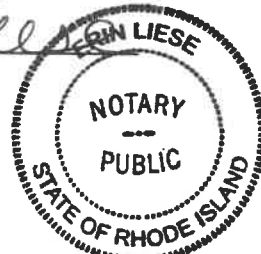
Erin Liese  
NOTARY PUBLIC  


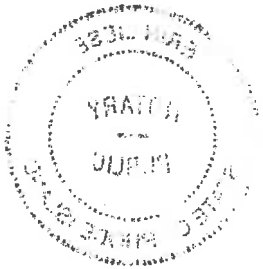
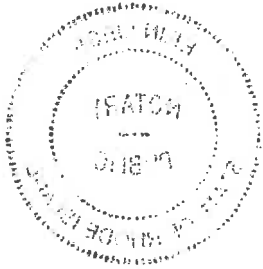
**Dutch Harbor Boat Yard, LLC.**

By: [Signature]  
Joseph McGrady, Owner/Manager  
Duly Authorized

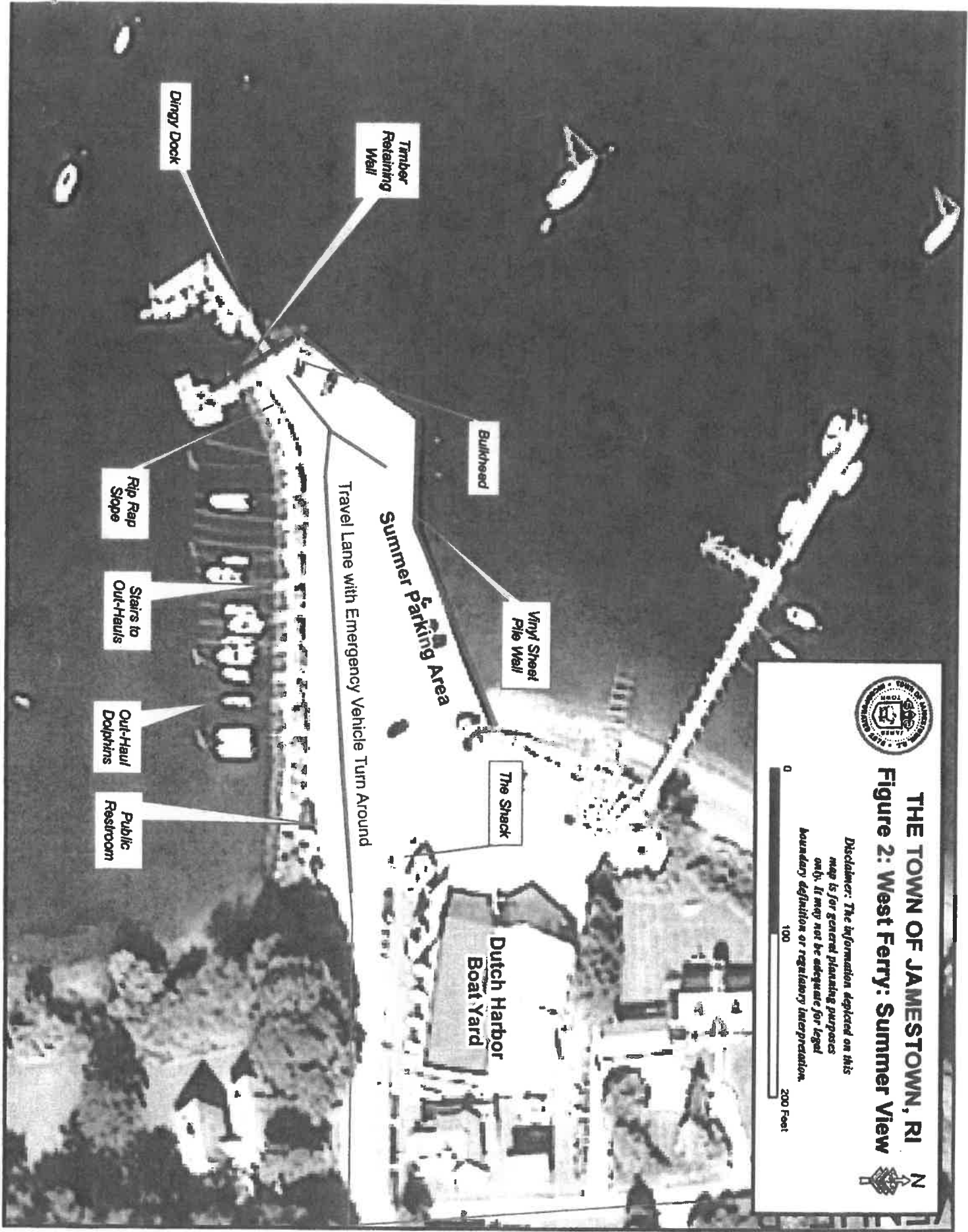
STATE OF RHODE ISLAND  
COUNTY OF NEWPORT

Joseph Mc Grady, in said County, on this 21 day of October, 2020, before me personally appeared the above-named Joseph McGrady, executing the foregoing instrument for and in behalf of the said Dutch Harbor Boat Yard, LLC; to me known and known by me to be the party described in and who executed the foregoing instrument; and he acknowledged the same, by him so executed, to be his free act as Owner/Manager of the Dutch Harbor Boat Yard, LLC, as aforesaid, and his free act and deed individually as well.

Erin Liese  
NOTARY PUBLIC  








**THE TOWN OF JAMESTOWN, RI**  
**Figure 2: West Ferry: Summer View**

*Disclaimer: The information depicted on this map is for general planning purposes only. It may not be adequate for legal boundary definition or regulatory interpretation.*







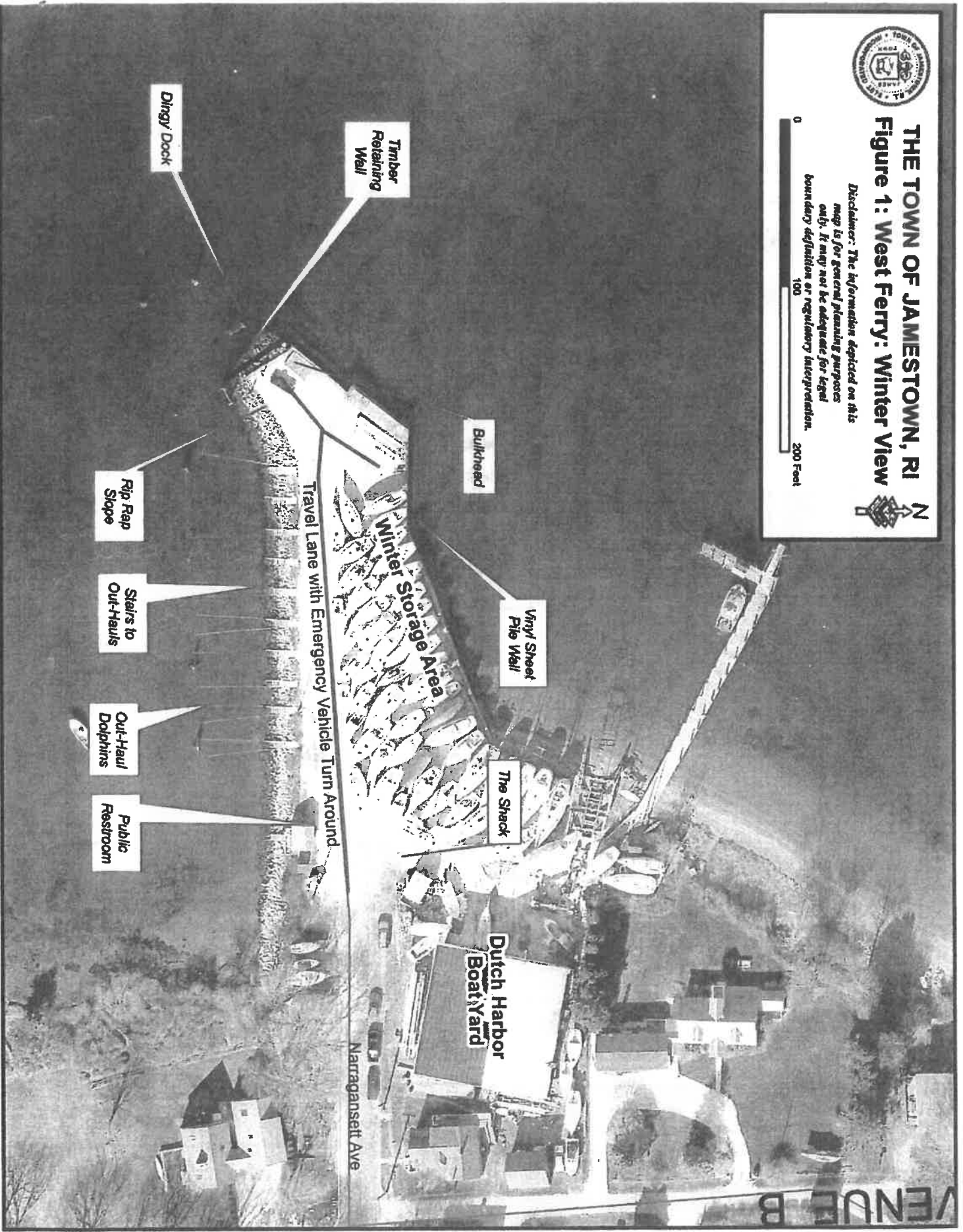
# THE TOWN OF JAMESTOWN, RI

## Figure 1: West Ferry: Winter View



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0 100 200 Feet



Dingy Dock

Timber Retaining Wall

Bulkhead

Vinyl Sheek Pile Wall

The Shack

Dutch Harbor Boat Yard

Narragansett Ave

Winter Storage Area

Travel Lane with Emergency Vehicle Turn Around

Rip Rap Slope

Stairs to Out-Hauls

Out-Haul Dolphins

Public Restroom

VENUE B

