

**DOCK LEASE BETWEEN BOIS BLANC TOWNSHIP
AND
PLAUNT TRANSPORTATION CO., INC.**

WHEREAS, the Township of Bois Blanc, Michigan (the "Township") owns and maintains a public dock and harbor facility on Lake Huron on Bois Blanc Island in the Township of Bois Blanc, Mackinac County, Michigan; and

WHEREAS, the Township, recognizing the general public's need to have safe and reliable water transportation between Bois Blanc Island and the mainland, is interested in assuring that its dock and harbor facility is used in a manner consistent with the best interests of the public; and

WHEREAS, Plaunt Transportation Co., Inc., a Michigan corporation ("PTC"), operates a ferry boat between Bois Blanc Island and the City of Cheboygan on the mainland, and is interested in using the aforesaid port facilities and dock for its ferry boat; and

WHEREAS, the Township is willing to enter into a nonexclusive lease providing for such use with terms which are mutually beneficial so long as PTC operates such ferry line in a manner consistent with the public interest as set forth herein.

Now, therefore, in exchange for good and valid consideration as set forth herein, the sufficiency of which is acknowledged, it is agreed as follows:

1. Lease. Subject to the terms, conditions and provisions of this instrument (the "Agreement"), the Township hereby leases, demises and lets unto PTC, and PTC hereby receives and accepts from the Township, those portions and areas of the south side of the north pier harbor facilities belonging to the Township, which are depicted in red ink on Exhibit "A" which is annexed hereto and is incorporated herein by reference as a part of this Agreement (the "Premises").

Nothing herein shall be construed to limit the right, title and interest of the Township to other portions of the dock area that are not subject to this Agreement. The Township may further lease other portions of the Premises to other lessees so long as the activities of such other lessees do not interfere with the operations of PTC under this Agreement. This Agreement includes only the dock side area, the loading ramps and docking aids referred to herein and shown on Exhibit A.

2. Term. This Agreement shall begin and commence on June 1, 2020 and shall end and terminate on December 31, 2029; provided, however, that except for 2020, the lease shall be on an annual basis running from January 1 to December 31 each year and further provided that the June 1 commencement date for 2020 shall not result in a pro-ration of the rental due for 2020 which shall, in accordance with Section 3.a., remain \$5,500.

3. Consideration. As and for consideration for entering into this Agreement, the Township shall receive from PTC the annual rent and other obligations as set forth below.

a. Annual Rent. The annual base rent in the year 2020 shall be \$ 5,500.00. Thereafter, during the term of this Agreement, the annual base rent shall be increased each year by two percent (2%). The 2020 annual rent is due and payable to Township upon the execution of this Agreement by both parties. Beginning with calendar year 2021, the annual rent shall be paid to the Township on or before April 15 of each calendar year.

b. Past Fees; Damages Waiver. Within 30 days of the parties' execution of this Agreement, PTC shall pay the Township the additional sum of \$5,000 in total for the 2018 and 2019 ferry seasons. The Township hereby waives any damage claim it may have for damage to the Township pier and ramp occurring on or about December, 2019.

4. Schedule. PTC's ferry trips schedule for 2020 is attached as Exhibit "B" and incorporated by reference. On or prior to February 1 of each year, PTC shall submit to the Township in writing its proposed ferry schedule for that year for approval by the Township. The PTC schedule will be deemed approved unless the Township objects to the schedule in writing prior to March 15. It will be a material breach of this Agreement for PTC to fail to meet the schedule approved as set forth herein provided, however, that the following exceptions shall be recognized by the parties:

a. Except where specifically provided otherwise in this Agreement, PTC's obligations with regard to the ferry service shall only apply during the times that the ferry operates (which can be as early as late March or April, and as late as mid-to-late December, weather depending).

b. The parties acknowledge and agree that the ferry boat cannot and should not run during inclement weather where there is an unreasonable risk of the boat capsizing, icing up, injury or damage to the ferry, vehicles or other items or danger or risk to passengers or crew.

c. PTC shall not be obligated to meet the ferry schedule in the event of a mechanical or similar emergency or breakdown beyond the reasonable control of PTC and which prohibits PTC from operating.

5. Rates. PTC's fee schedule for 2020 is attached as Exhibit C and is incorporated by reference. It covers all rates and fares imposed by PTC. On or prior to February 1 of each year, PTC shall submit to the Township in writing PTC's complete proposed fee schedule and fares for that year. The PTC fee schedule will be deemed approved unless the Township objects to the schedule in writing prior to March 15. PTC may increase fees annually by up to the official federal Consumer Price Index without Township approval. At PTC's discretion, the fee increases may be rolled up to the following year provided, however, that PTC shall notify the Township in writing of any such determination to roll up fees for one or more years.

6. Equal Access; Nondiscrimination and Noninterference; Dispute Resolution.

a. PTC shall not discriminate against the traveling or shipping public in any way. PTC shall charge only the fares and rates approved by the Township.

b. Notwithstanding Section 6.a., PTC retains the ability to refuse ferry service to any person, entity or group (jointly and individually for purposes of this subsection the "person") only for the following reasons: the person endangers the safety or health of other ferry passengers; risks damage to the ferry boat; disturbs the peace; is violating the law; or is unreasonably abusive or disruptive.

c. PTC shall not interfere in any way or obstruct any other commercial ferry boat operator or other lawful commercial nautical use using the Premises or public marina.

d. If any customer of PTC has a dispute with PTC regarding ferry service (except disputes over money or fees owed), PTC, if requested by the Township, will participate in good faith informal conciliation efforts.

7. Maintenance Obligations. The Township shall perform (at its sole cost and expense) all maintenance, capital improvements and repairs to the electric lift, ramp boat guides and other items within the Premises and immediate surrounding area (except for damage done to those items by PTC beyond normal wear and tear, for which PTC shall be liable). In the event that damage is caused by PTC, and except in the event of an emergency necessitating immediate action, the Township shall notify PTC in writing of such damage and PTC shall then have 14 days in which to submit a proposal for the prompt repair of the damage to the Township for the Township's approval, which approval shall not be unreasonably withheld. In the event of an emergency or if an acceptable proposal is not submitted within 14 days after damage subject to this section is identified in writing to PTC, the Township shall have such work done and shall bill PTC for its share of such costs and expenses. Any disagreement regarding such charges shall be submitted to the Township in writing within 14 days of receipt. PTC shall not modify the Premises or any of the surrounding areas without the prior express consent of the Township Harbor Commission (which shall work with the Township Board if a major modification is involved). Nothing herein shall be construed to limit or act as a waiver of the Township's entitlement to rely on governmental immunity to the extent, and in the manner, permitted by law.

8. Non-relationship. Nothing in this Agreement shall be construed as creating a partnership, joint venture or a contract of employment between the parties.

9. Indemnification. PTC shall protect, defend, indemnify and hold the Township and its officers, agents, employees, representatives, or any other person for whom the Township is vicariously liable harmless from any and all claims, liabilities, causes of action, suits, damages, losses, costs and expenses (including but not limited to reasonable attorney fees) that the Township incurs, suffers, sustains or experiences as a result, direct or indirect, of any acts, omissions, accidents, incidents, occurrences or negligence of PTC, its officers, agents, employees, representatives, or any other person for whom PTC is vicariously liable, occurring or happening on or near the dock or in connection with this Agreement or the Premises. This section regarding indemnification and hold harmless rights to the Township is intended to apply to any

and all activities related to this Agreement. PTC acknowledges and agrees that its use of the Premises (and the surrounding areas) and the public marina is at its own risk and PTC assumes any and all such risk. The Township makes no representations, promises, warranties or guarantees regarding the public marina, the Premises and/or surrounding areas and PTC agrees to take the Premises (and the areas surrounding it) and the public marina in their present condition and "AS IS." The Township shall have no liability or responsibility with regard to the ability or inability of PTC to use the public marina, the Premises and/or surrounding areas except as otherwise expressly provided for herein. The obligations set forth in this section shall survive any termination of the Agreement.

10. Insurance. PTC shall maintain liability and damage insurance in the amount of at least Two Million Dollars (\$2,000,000.00), and shall include the Township as a named additional insured on said policy, including waiver of subrogation and a 30 day minimum written cancellation notice. PTC shall submit written proof of said insurance being in full force and effect to the Township each year prior to commencing ferry service but in any event no later than April 15. Upon the Township's reasonable inquiry at other times, written proof of such insurance shall be promptly provided to the Township. PTC further agrees to protect, defend, indemnify and hold the Township harmless from any and all claims, causes of action, damages, losses, expenses or liability arising out of the docking or movement to or from the dock of the vessels of PTC and the loading and off-loading of all passengers, vehicles, or freight from said vessels. The Township shall also maintain liability and damage insurance in the amount of at least Two Million Dollars (\$2,000,000.00) and shall submit written proof of said insurance being in full force and effect to PTC each year on or before April 15. Upon PTC's reasonable inquiry at other times, written proof of such insurance shall be promptly provided to PTC.

11. Non-Interference. To the extent that the Township has the jurisdiction to do so, upon the request of PTC, the Township will regulate and/or prohibit others to dock or anchor vessels in a manner so that such vessels will not interfere with the normal maneuvering of PTC's vessels.

12. Compliance with Laws. Both the Township and PTC will obey all laws and regulations of the United States of America, including but not limited to regulations of the United States Coast Guard and the United States Army Corps of Engineers. The Township and PTC will also obey all laws, ordinances and regulations of the State of Michigan, Mackinaw County, and the Township of Bois Blanc.

13. Destruction or Damage. In the event the dock of the Township is substantially damaged or destroyed, in whole or in part, by act of God or other means, to the extent it cannot be used by PTC in the manner provided for herein, either the Township or PTC is free to declare this Agreement null and void and to terminate this Agreement. In the event the Township decides to rebuild or repair its damaged or destroyed dock, the rent payable under the terms of this Agreement shall abate proportionately during the repair or reconstructive period.

14. Assignment. This Agreement may not be assigned or delegated in whole or in part without the prior written consent of the Township. The Township's consent to assignment will not be unreasonably withheld.

15. Arbitration. In the event any dispute arises between the Township and PTC relating to this Agreement, the dissatisfied party will send a written notice to the other requesting the scheduling of a meeting within 15 days to attempt to resolve the issue short of arbitration. If no meeting is scheduled or if at a meeting or meetings the issue or issues are not resolved to the satisfaction of the parties, the issue shall be submitted to binding arbitration with the costs of such arbitration to be evenly divided between the parties. Arbitration shall be commenced by one party providing the other with written notice of the issue being submitted to arbitration and stating the name of an arbitrator. If the parties cannot agree on a single arbitrator, the other party shall then have 20 days to name a second arbitrator, and the two arbitrators shall thereafter meet and select a third arbitrator. The decision of the arbitrators shall be binding upon both parties. In the event the two arbitrators cannot agree on the identity of a third arbitrator, the third arbitrator shall be designated by the Circuit Court Judge of Mackinac County, Michigan. Judgment on any arbitration award may be entered in any court having jurisdiction over these parties.

16. Meetings and Communications. PTC and the Township agree to meet at regular intervals or as deemed necessary or appropriate by either party for the purpose of discussing any public concerns about ferry transportation services or any other issues of concern to either PTC or the Township.

17. Continued Service. The Township and PTC shall meet at the beginning of the last year of this Agreement for the purpose of defining any proposed changes in the terms of the Agreement. During such negotiations, all provisions relevant to this Agreement shall be open for discussion and negotiation. After this Agreement expires and until a new agreement is signed between the Township and PTC or another lessee, PTC will continue to meet the public need for scheduled ferry service on the terms set forth in this Agreement for a period of not to exceed one year. However, if PTC intends to go out of business, PTC's obligation to provide service beyond December 31 may be terminated by PTC giving 90 days prior written notice to the Township of its intent to go out of business.

18. Amendments. Any and all terms of this Agreement may be reviewed and are negotiable at any time during the term of the Agreement; but this Agreement shall not be amended, altered or changed except in a written document signed by both parties.

19. Right of First Refusal. For a period of two years following the expiration of this Agreement, PTC shall have the right of first refusal described herein. In the event the Township receives an offer to lease all or any part of the Premises which the Township desires to accept, the Township shall notify PTC in writing of such offer and PTC shall then have 30 days from its receipt of such written notice to notify the Township that PTC accepts the terms of such offer. In the event PTC notifies the Township in writing within such 30 day period, PTC and the Township shall then agree on a date to be within 30 days when they will enter into an agreement on the same terms and

provisions as set forth in the proposed agreement. In the event PTC does not exercise its right of first refusal as aforesaid, the Township may thereafter enter into the agreement on such terms with the new proposed agreement. In the event that PTC fails to exercise this right of first refusal, and the Township thereafter enters into an agreement with a lessee other than PTC covering all or any part of the Premises, which agreement is one year in length or longer, PTC shall have no further right of first refusal.

20. Termination. In the event PTC fails to pay the annual rent or take other actions as required in Section 3, for a period of fifteen (15) days, and provided that a written notice of the failure to make payment is provided to PTC, the Agreement may be declared null and void and terminated in its entirety five (5) days after the notice to PTC. Likewise, if PTC fails to maintain insurance as provided in Section 10 for a period of five (5) days and notice of such failure to maintain insurance is provided to PTC in writing, the Agreement may be declared null and void and terminated in its entirety five (5) days after the written notice. The above situations are not the only or exclusive grounds for termination of this Agreement.

21. Notice. Any notice provided for under the terms of this Agreement shall be deemed delivered on the day after it is mailed certified mail via U.S. Postal Service to the parties to this Agreement to the following addresses:

Township of Bois Blanc
ATTN: Township Clerk
431 Sioux Ave.
Pointe aux Pins, MI 49775

Plaunt Transportation Co., Inc.
412 Water St.
Cheboygan, MI 49721

As an alternative, a notice is also deemed delivered if it is served on the other party in the manner provided for the service of a summons in Michigan statutes.

22. Supersedes Prior Agreements. This Agreement supersedes and replaces any and all prior agreements between the parties, including the Commercial Dock Lease dated April 1, 2012.

23. Miscellaneous.

a. Breach, Default and Remedies. In the event of a breach or default of this Agreement by either party, the non-breaching/non-defaulting party shall have such remedies as are available pursuant to Michigan law or equity, except as otherwise provided in the arbitration clause in Section 15 hereof. Specific performance is a remedy expressly available to the non-breaching/non-defaulting party. All remedies shall be deemed to be cumulative and not exclusive or preclusive.

b. Severability. If any term, provision or clause of this Agreement is determined to be unconstitutional or unenforceable by a court of competent jurisdiction, that shall not affect any other provision or clause of this Agreement and the remainder of this Agreement shall remain in full force and effect.

c. Binding Effect; Authority. This Agreement shall bind and benefit not only the parties hereto, but also their employees, agents, successors, heirs and assigns. Furthermore, the parties hereto agree, represent and warrant that they have full authority to sign into this Agreement and to make it fully binding and enforceable.

d. Time is of the Essence. Time will be of the essence regarding this Agreement.

e. Applicable Law. This Agreement shall be governed by the laws of the State of Michigan.

f. Counterparts. This Agreement may be executed in counterparts, each of which when executed shall constitute an original, but all counterparts together shall constitute but one and the same instrument.

g. Waivers. A waiver of any right or remedy under this Agreement or as provided by law is only effective if given in writing by the waiving or consenting party and shall not be deemed to be a waiver of any other breach or default. A failure or delay by a party in exercising any right or remedy under this Agreement or by law shall not constitute a waiver of that or any other right or remedy thereafter.

h. Entire Agreement. This Agreement constitutes the entire agreement and understandings between the parties relating to the subject matter of this Agreement. This Agreement supersedes all prior negotiations, courses of dealing, the prior Commercial Dock Lease, other agreements and all representations and promises, whether written or oral, relating to the subject matter of this Agreement.

i. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

(Remainder of page left intentionally blank.)

Dated: June 22, 2020

Township of Bois Blanc

By: Miriam M. Akers

Its: BBT, Clerk

By: Anne McKenna

Its: BBT Treasurer

Dated: 6/22, 2020

Plaunt Transportation Co., Inc.

By: Geoff Plaunt

Its: President

2020 Ferry Rates

Adult Fare	19.00
Auto Fare	68.00
Auto/Truck w/ Hangover	105.00
Auto w/trailer (12")	130.00
Auto w/trailer (20")	150.00
Bicycle	5.00
Child Fare	13.00
Freight (Box – Pkg)	5.00
Fuel Oil (bulk)	.16/gal
Gasoline (bulk)	.20/gal
Gators / Side x Side	50.00
Motorcycles – ATV's – Boats	30.00
Motor Home	155.00
Small Appliances/Kayaks	20.00

Trailer (12' – single axle)	70.00
Trailer (12' – 20')	100.00
Trailer (over 20')	125.00
Truck (cement)	280.00
Truck (semi to 65')	280.00
Truck (semi > 65')	360.00
Truck (1 ton)	105.00
Truck (24,000#)	120.00
Truck (36,000#)	130.00

Exhibit

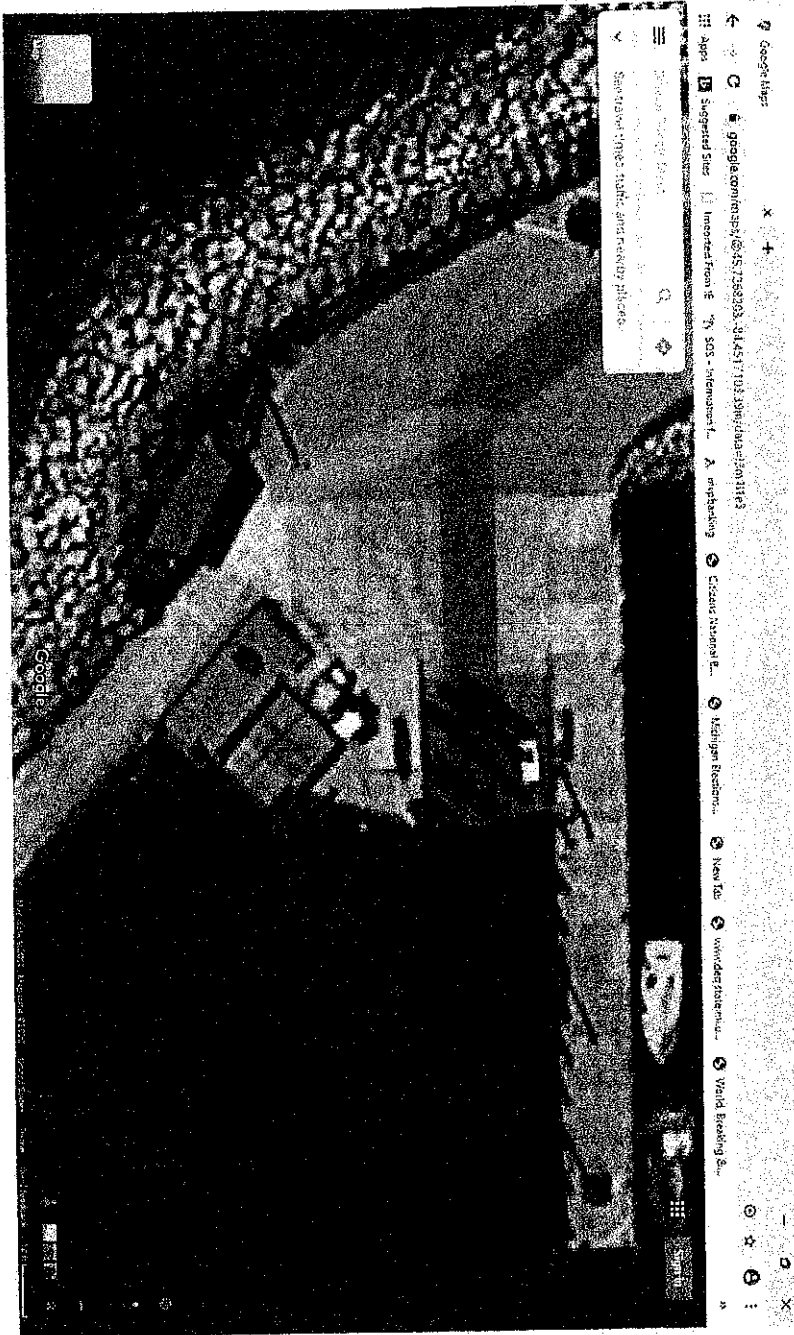


EXHIBIT A

Red Area indicates the rented area of the lease; to include the mooring space(South side of the North Pier) and the ramp for loading & unloading.

BOIS BLANC TOWNSHIP
MACKINAC COUNTY, MICHIGAN
(Resolution No. 2020-075)

At a Special meeting of the Township Board for Bois Blanc Township held at Bois Blanc Township Hall on June 22, 2020 beginning at 9:00 am, the following Resolution was offered for adoption by Township Board Member Diane Akright and was seconded by Township Board Member Tom Wybranowski:

**A RESOLUTION APPROVING A NEW LONG TERM AGREEMENT
WITH PLAUNT TRANSPORTATION, INC AND AUTHORIZING ITS
EXECUTION**

RECITALS

- A. Since Bois Blanc Township is an island in Lake Huron, ferry service for passengers, vehicles, freight, fuel, supplies and other items is absolutely essential for the public safety, health, welfare and convenience.
- B. Plaunt Transportation, Inc. ("PTI") has been providing such necessary ferry services to the Island for over 85 years, with round trips between the City of Cheboygan and Bois Blanc Island.
- C. For some time, both Bois Blanc Island Township (the "Township") and PTI have been negotiating a new long term ferry agreement and franchise for PTI's ferry service. The parties have now reached agreement on the draft contract.
- D. The Township Board believes that the proposed new ferry contract is in the best interests of Bois Blanc Township, as well as its property owners, residents, and visitors.

RESOLUTION

NOW THEREFORE, BE IT RESOLVED:

1. The Township Board approves the ferry contract attached hereto as Exhibit 1.
2. Given that Supervisor Brent Sharpe has a potential conflict of interest, Township Clerk Diane Akright and Township Treasurer Anne Kennedy are hereby authorized to execute and sign the contract attached hereto as Exhibit 1 on behalf of the Township. At least two original copies of the contract shall be signed and executed.
3. The Township Clerk shall provide PTI with the two executed originals of the ferry contract, request that PTI execute and sign both originals, and also request that PTI return one fully executed copy to the Township.
4. This Resolution shall become effective immediately.
5. Any and all resolutions and motions in conflict with this Resolution are hereby repealed to the extent of any such contract.

The vote to adopt this Resolution was as follows:

AYES: Louise Sullivan, Anne Kennedy, Tom Wybranowski, and Diane Akright

NAYS: None


ABSENT/ABSTAIN: Supervisor Brent Sharpe

RESOLUTION DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above Resolution is a true copy of a document adopted by the Township Board for Bois Blanc Township at the time and date specified above pursuant to the required statutory procedures.

Respectfully submitted,

By: 
Diane Akright
Bois Blanc Township Clerk

