

EXTENSION OF LEASE AGREEMENT

This extension of Lease Agreement is entered into by and between the City of Fairhope (Landlord) and Eastern Shore Marine Inc. (Tenant).

RECITALS

Where as, Landlord and Tenant entered into a lease agreement dated May 1, 1987; and, whereas, said lease terminates July 31, 2002, and whereas, the parties are presently negotiating the extension and renewal of said lease, and whereas, the parties need additional time to complete the negotiations.

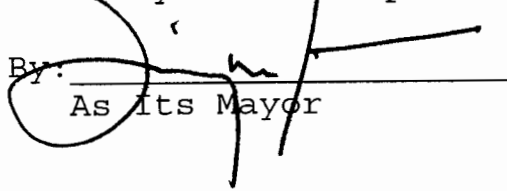
AGREEMENT

Now, therefore, in consideration of the mutual covenants, conditions and promises stated herein, the parties hereto agree as follows:

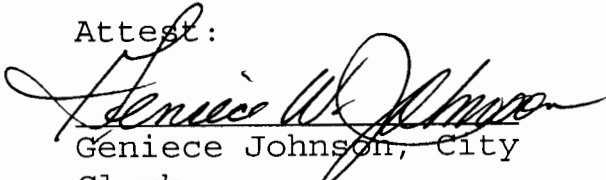
- 1. The lease agreement is hereby extended to ^{October} ~~August~~ ^{EM} ~~31~~, 2002.

Witness our hands and seals this 19th day of August 2002.

The City of Fairhope

By: 
As its Mayor

Attest:


Geniece Johnson, City Clerk

instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official notary seal this 19 day of August 2002.

Maury Chubman

NOTARY PUBLIC

My Commission Expires: 10-19-05

STATE OF ALABAMA

COUNTY OF BALDWIN

I, the undersigned, a Notary Public in and for said State and County, hereby certify that **ED WALL**, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this 19th day of August 2002, that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official notary seal this 19th day of Aug 2002.

Lennie W. Johnson

NOTARY PUBLIC

My Commission Expires 10/19/05

Eastern Shore Marine Inc.

By: [Signature]
As Its President

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned, a Notary Public in and for said State and County, hereby certify that **TIMOTHY KANT**, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this 19th day of Aug. 2002, that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official notary seal this 19th day of Aug. 2002.

[Signature]
NOTARY PUBLIC
My Commission Expires 10/19/05

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned, a Notary Public in and for said State and County, hereby certify that **GENIECE JOHNSON**, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this 19th day of Aug. 2002, that, being informed of the contents of said

✓ 14 October 2002

RESOLUTION NO. 415-02

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, that Mayor Kant is hereby authorized to execute a new lease agreement between the City of Fairhope and Eastern Shore Marine, Inc.

The lease amount of this location shall be \$ 13,200.00 each year, and shall have a term of fifteen (15) years. More particulars regarding this least agreement are within the lease agreement.

ADOPTED THIS THE 14th DAY OF October , 2002

Timothy M. Kant, Mayor

Attest:

Geniece W. Johnson, City Clerk

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, authorizing Mayor Kant to execute a Joint Resurfacing Project between the City of Fairhope and Baldwin County for the resurfacing of certain streets. Seconded by Councilmember Quinn, motion passed unanimously.

RESOLUTION NO. 416-02

WHEREAS, the City of Fairhope and Baldwin County desire to enter into an agreement to resurface certain streets that are located partially within the City limit and located partially in the County; and,

WHEREAS, certain streets have never been accepted by the City of Fairhope, but the City of Fairhope has maintained these streets over a number of years; and,

WHEREAS, the two agents agree to work on this Joint Resurfacing Project over the next three (3) years, each agent shall pay no more than \$50,000.00 for asphalt each year, and the County shall also provide all equipment and labor each year at no additional cost to the City of Fairhope.

WHEREAS, once the resurfacing of certain streets are completed the City of Fairhope shall maintain the completed streets fully.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, that Mayor Kant is hereby authorized to execute the Joint Resurfacing Project with the County for resurfacing certain streets.

ADOPTED THIS 14th DAY OF October , 2002.

Timothy M. Kant, Mayor

ATTEST:

Geniece W. Johnson, City Clerk

LEASE AGREEMENT

STATE OF ALABAMA
COUNTY OF BALDWIN

THIS LEASE agreement made and entered into this 14th day of, October 2002, at Fairhope, Alabama, by and between CITY OF FAIRHOPE, an Alabama Municipal Corporation, hereinafter referred to as "Landlord" or "Lessor" and EASTERN SHORE MARINE, INC., hereinafter referred to as "Tenant" or "Lessee".

1. Premises and Term. Landlord does hereby lease and demise unto Tenant that premises situated in Baldwin County, Alabama, which is described in attached Exhibit "A", which is made a part hereof and incorporated hereby by this reference, hereinafter referred to as the "Leased Premises" or "Premises", for continuous use and occupancy for and during the term of fifteen (15) years, beginning October 14, 2002, 2002, and ending October 14, 2017. (At the option of the Landlord and upon written request of the Tenant, made not less than one hundred twenty (120) days prior to the end of this lease, the lease may be extended for an additional fifteen (15) year period or any lesser period.) This period is herein referred to as the "term" or "period" of said lease and shall include any extensions. Upon final termination of the lease, whether for the original term or the extended term, except in the event of default, Landlord shall pay to the Tenant for the approved improvements and additions, a sum equal to the original cost or the original value of the improvements and additions, whichever is less, when purchased or incorporated into the property, less depreciation calculated on a thirty (30) year straight line depreciation schedule. For example, if the lease is canceled at the end of the initial fifteen (15) year term, Tenant shall receive fifty percent (50%) of said amount or if the lease is renewed for an additional fifteen (15) year term, Tenant shall receive nothing at the end of said renewal term. Provided, in no event shall Lessor be required to pay more than the actual appraised value of the improvements at the time of termination of this lease, notwithstanding anything to the contrary herein stated.

2. Rent. Tenant promises and agrees to pay to Landlord for the term of this lease in lawful money of the United States of America payable as follows:

The sum of \$13,200 for the first year, payable in advance on or before the tenth day of each month in monthly installments of \$1,100.00 each; and the sum of \$13,200 each year thereafter, payable in advance in monthly installments of \$1,100.00 each; provided, however, in the alternative, Lessee shall pay five percent (5%) of the monthly rental income earned from the Leased Premises during any month in which the percentage rent shall exceed the fixed monthly rent. Every five years the rent shall be adjusted using The Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics with 2002 being the base year for adjustment.

3. Improvements and Services. Among other things, Tenant shall furnish and provide the following improvements, facilities and services on the Leased Premises, during the term of this lease:

Remove old boathouses, piers, bulkheads, and pilings as required by new design plans. All old material will be removed from the site and disposed of in proper manner. (Already Completed)

Replace bulkheads with CCC piling and aluminum bulkhead material. Replace wharfs with treated lumber, piling, and material designed to accommodate 53 boats.

Install A.C. power and water stations for each slip with security lighting to be incorporated into each pedestal.

Pave and mark all parking areas designated as such.

Landscape all areas not designated as parking or other areas to be improved.

All improvements, and additions required hereinabove, and all other improvements and additions to the Leased Premises, must have the prior written approval of the Landlord.

All improvements and additions required herein shall be completed within twenty-four (24) months of the issuance of a permit by all necessary permitting authorities, and thereafter all improvements, facilities and services shall remain available to the public, during the entire term of this lease and any extensions thereof. This Lease may be terminated at the option of either party if all necessary permits have not been obtained within nine (9) months of the execution date hereof.

The failure of Tenant to provide the improvements, facilities and services during the term of this lease or to obtain the prior written consent of Landlord for any improvements or additions shall constitute a default herein and, at the option of the Landlord, shall constitute a default as hereinafter provided. This Lease may be terminated at the option of either party if reasonable financing has not been obtained by Tenant within nine (9) months of the execution date hereof.

4. Use of Premises. The premises during the term of this lease shall be used and occupied solely for the purpose of a boat docking marina and parking area; and, Tenant shall not use nor permit the same to be used for any other purpose or purposes without the prior written consent of the Landlord. Tenant at all times shall fully comply with all laws, ordinances and regulations of any lawful authority having jurisdiction of said premises including, but not limited to, such as shall relate to dredging, health, safety, sanitation and cleanliness. Tenant will not commit any waste to said property nor permit the same to be done and will take good care of said premises at all times, and will not, by any act or omission, render Landlord liable for any violation thereof. The public shall at no time be prevented or prohibited from use of the beach areas adjacent to the Leased Premises.

5. Condition of, Damage to and Maintenance of Premises.

Tenant shall examine said premises before taking possession, and Tenant's entry into possession shall constitute conclusive evidence that, as of the date thereof, the said premises were in good order and satisfactory condition. Landlord does not warrant the condition of the premises or that the property is fit for any particular purpose, except as hereinafter set out.

At its sole cost and expense, Tenant shall maintain and keep in good repair the grounds, bulkheads, piers and wharfs, roofs, exteriors and supporting walls of any buildings, the interiors of any buildings, including floors, heating units, air conditioning units, store fixtures, store equipment, electrical fixtures and equipment, electrical installations, plumbing, plumbing equipment and fixtures, all machinery, all hardware, all interior painting or decorations of every kind, all door and window screens and replace all broken or damaged glass. Such repairs and replacements shall be made only by competent and responsible workmen.

If Tenant fails to do or undertake the replacement, maintenance and repair of the items and things herein required of Tenant, the Landlord may do and undertake the same, after two days' written notice, and the Tenant will upon demand pay the Landlord the costs and expenses thereof, together with interest thereon at the highest legal rate. Any sum thus due from Tenant to Landlord by virtue hereof shall be secured as additional rent under the terms of this lease.

Landlord shall not be liable for any loss or damage caused by, or growing out of, any breakage, leakage, disorder or defective condition of the heating, air conditioning, or mechanical installations and/or systems, electric wiring, pipes, or plumbing. Landlord shall not be liable for any damage to any property on said premises caused by, or growing out of, fire, rain, lightning, wind, high water, over-flow water, freezing or other causes.

6. Fixtures. Except as otherwise herein provided, all Leased Premises shall become the property of the Landlord, with the exception of furniture or trade fixtures. Said furniture and trade fixtures remain the property of the Tenant, and may be removed by the Tenant upon the expiration of this lease, provided all terms, conditions and covenants of this lease have been complied with by the Tenant and Tenant restores the building and premises to its original condition, natural wear and tear excepted. No improvements by Tenant, including painting, shall be made upon said property without the prior written consent of Landlord. Landlord shall have the right to require a written waiver of mechanics' or material men's liens by the contractor prior to executing written consent to place said improvements on the property.

7. Indemnity and Insurance; Waiver of Subrogation. Tenant will indemnify, protect and save harmless Landlord, its officers, officials, agents, appointees, and employees, from any loss, cost, damage, liability or expense, including court costs, attorney's fees and any other legal costs, caused by injury or damage to any person or to property of any person other than Tenant while in or on said premises herein leased; and, the Landlord shall not be liable for any loss of any property of Tenant, however

occurring. The Landlord, its officers, officials, agents, appointees, and employees, shall be indemnified by the Tenant against such liability arising from all causes, including the acts or omissions of Landlord, Tenant or third persons. In furtherance hereof, Tenant will obtain and provide a copy to Landlord of a policy of general liability insurance subject to approval of Landlord in amounts of not less than \$1,000,000.00 showing Landlord as co-insured. The amount of said insurance shall be reviewed every two years by Landlord and may be increased at a rate not to exceed ten percent (10%) per year for each preceding year of existence of this Lease if Landlord determines that its liability is not adequately insured. The policy shall at all times provide that the Landlord shall be notified not less than thirty (30) days in advance of any proposed cancellation of the policy. This insurance shall be in addition to any other insurance required to be maintained by Lessee under any other lease Lessee may have with Lessor.

Tenant shall maintain insurance covering its leasehold improvements located in the above described premises and insurance covering any buildings and other improvements owned by either Landlord or Tenant on the above described premises for the full value of said improvements with a copy of said policy to be deposited with Landlord and non-cancelable until not less than thirty (30) days notice has been given to Landlord of the proposed cancellation. Tenant agrees not to assign to any insurance company any right or cause of action for damage to the property of Tenant located on the above described premises, which Tenant now has or may subsequently acquire against Landlord during the term hereof. This agreement not to assign rights or causes of action shall apply only where such insurance as described herein and applicable law allow the Insured to enter into such an agreement; and, this agreement shall apply only as respects insured loss occurring on the property described herein. Tenant shall only be required to provide flood insurance if it is reasonably available.

8. Utilities. Tenant shall pay all the charges for all utilities used in and about the leased premises.

9. Overloads. Tenant will not overload any building, its floors, roof, or walls, any bulkheads, piers, and wharfs, and shall be liable for all damages to the premises or other consequences of overloading.

10. Default. Upon the happening of any one or more of the events as expressed in subparagraphs hereof below (which said events shall separately and severally constitute a default hereunder at Landlord's option), the Landlord shall have the right at the option of the Landlord to: (1) annul and terminate this lease, and thereupon re-enter and take possession of said premises; or (2) re-enter and re-let said premises from time to time, as agent of the Tenant, and such re-entry and/or re-letting shall not discharge Tenant from any liability or obligation hereunder, except that net rents (that is, gross rents less the expense of collecting and handling, and less commissions) collected as a result of such re-letting shall be a credit against the Tenant's liability for rents under the terms of this lease. Nothing herein shall be construed to require the Landlord to re-enter and re-let in such event. Nor shall anything herein be construed to postpone the right of the Landlord to sue for rents, whether matured by acceleration or otherwise; Landlord shall have the right to demand, collect and/or sue therefor at any time after default.

Each of the following may be treated by Landlord as a default:

Tenant's failure to pay any one or more of said installments of rent as and when the same becomes due, or failure to pay on demand any amount due Landlord and secured as additional rent hereunder.

Tenant's removal, attempt to remove or permitting of removal from said premises (except in the usual course of trade) the goods, furniture, effects or other property of the Tenant brought thereon.

Execution or other legal process upon the goods, furniture, effects or other property of the Tenant brought on said premises, or upon the interest of the Tenant in this lease.

Filing of a petition in bankruptcy or a petition under the bankruptcy laws by or against the Tenant, or commission by the Tenant of an act of bankruptcy.

An assignment for the benefit of creditors by the Tenant or appointment of a receiver of Tenant's property.

Before the expiration of the term hereof, and without the written consent of the Landlord, Tenant vacates said premises or abandons the possession thereof, or uses the same for purposes other than herein specified or ceases to use said premises for the purposes herein specified.

Tenant's failure to provide records, tax filings and returns and books of account to Landlord as provided for herein.

Tenant's failure to properly insure the property as provided for herein.

Tenant's violation of any other term, condition or covenant on the part of the Tenant herein contained.

Upon default, upon breach of condition, or upon any termination of this lease or re-entry of said premises, the rents hereunder for the entire rental period and any other indebtedness payable under provisions hereof shall be and become immediately due and payable and without regard to whether or not possession of the premises shall have been surrendered to or taken by the Landlord. Said sum shall bear interest at the maximum legal rate.

11. Attorney fees and exemption waiver. Tenant agrees to pay a reasonable attorney's fee and all costs, if it becomes necessary for Landlord to employ an attorney to collect any of the rent agreed to be paid, to enforce any of the provisions of this lease, to obtain possession of the Leased Premises, or otherwise to exercise any option or enforce any right given to Landlord upon default by Tenant. Tenant expressly waives any exemptions secured to Tenant, whether a corporation or individual, under the laws of any state or the United States of America as against the collection of any debts herein or hereby incurred or secured.

12. Relation of Parties. The execution of this lease or the performance of any act pursuant to the provisions hereof shall not be deemed or construed to create between Landlord and Tenant the relationship of principal and agent, partnership, or joint venture, and the relationship between them shall be that only of Landlord and Tenant.

13. Landlord's reservation of rights. The failure of Landlord to insist upon a strict performance of any of the covenants or conditions of this lease or to exercise any option herein conferred in any one or more instances shall not be construed as a waiver or relinquishment of any such covenants, conditions or options, but the same shall remain in full force and effect. The receipt by Landlord of rent with the knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach. No waiver of Landlord of any provisions hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

14. Signs. The Tenant shall not erect on, display on, or cause to be painted on or affixed to the demised premises any lettering, signs, advertisements, awnings, or other projections thereon, without the prior written consent of the Landlord, which consent shall not be unreasonably withheld. The Tenant's request therefor shall be in writing and shall contain such information as to the proposed lettering and/or signs as the Landlord may reasonably require.

15. Condemnation. If the whole of the demised premises shall be taken by Federal, State, County, City, public utility, or other authority for public use or under any statute, or by right of eminent domain, then when possession shall be taken there under of said premises, the term hereby granted and all rights of Tenant hereunder shall immediately cease and terminate, and the Tenant shall be entitled only to that part of any award that may be made for such taking, to the extent of Tenant's improvements thereon. If but a part of the demised premises be taken by right of eminent domain, this lease shall continue in full force and effect as to the property remaining, provided such property remaining is capable of continued enjoyment by the Tenant for the uses and purposes provided for hereunder. Tenant shall not be entitled to any award that may be made for such taking, except to the extent of Tenant's improvements thereon, nor shall such taking constitute a termination of this lease, or a constructive eviction of Tenant. However, the rent payable hereunder shall be adjusted as of the time of such taking to equitably reflect the change in the size of said remaining property.

16. Subordination to mortgage. This lease shall at all times be subject and subordinate to the lien of any bonds, warrants, or mortgages now on or hereafter placed upon the premises, and to all advances made or hereafter to be made upon the security thereof. The Tenant binds and obligates itself to execute and deliver such further instrument or instruments subordinating this lease to the lien of any such bonds, warranty, or mortgages at any time same shall be requested by the Landlord. Whether or not this lease is subordinate to any such bond, warrant, or mortgage, the Tenant's right to quiet enjoyment of the premises demised hereby shall be maintained so long as Tenant shall pay all rentals and perform all duties required of Tenant hereunder.

17. Prohibition on Transfer by Tenant. Each and every transfer or assignment of this lease by the Tenant or any interest therein, and each and every subletting of said premises, or any part thereof, or any interest therein, shall be null and void, unless the prior written consent of the Landlord be obtained. Any violation hereof constitutes a substantial and material breach of condition of this lease, with all of the rights thereunto pertaining as in the case of default for any other cause hereunder. Said consent by the Landlord will not be withheld unreasonably.

18. Waste or Nuisance. Tenant shall not permit, cause or allow any act or omission in, on or about said premises, which shall unreasonably cause or be likely to unreasonably cause injury or damage to any person, or to said premises, or to the right of way adjoining the premises. Tenant shall not allow, cause or allow any unreasonably obnoxious, disturbing or offensive odors, fumes, gases, smoke, dust, steam or vapors or any loud or disturbing noise, sound or vibration to originate on or be emitted from said premises. Tenant shall at all times keep said premises in orderly condition and shall keep the entranceways adjoining the premises free from rubbish and dirt. Tenant agrees to permit no waste of the property, but on the contrary to take good care of the same and upon termination of this lease to surrender possession of the same in as good condition as at the commencement of the term or as they may be put in during the term as reasonable use and wear thereof will permit.

19. Binding effect. The covenants, conditions and agreements contained in this lease shall bind and inure to the benefit of the Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns. This provision shall not permit the assignment of the lease or subleasing of the premises, except as heretofore provided.

20. Landlord's Access. Landlord, its agents or representatives, at all reasonable times may enter said premises to inspect to insure compliance with the terms hereof and to exhibit the premises to prospective tenants or purchasers.

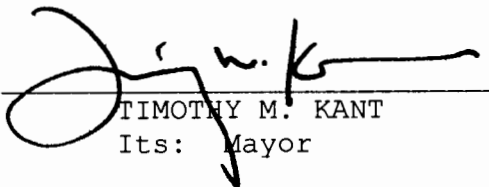
21. Notice. Any notices, demands, communications, or election to exercise any option herein, whether intended for the Landlord or the Tenant, shall be in writing and may be delivered in person or by registered or certified mail to the address of the party intended as the recipient thereof at such address as stated hereon, or to such other address as the parties may from time to time designate in writing.

22. Cumulative rights. All rights and remedies provided herein for the Landlord are cumulative and are in addition to any other remedies accruing to Landlord by operation of law.

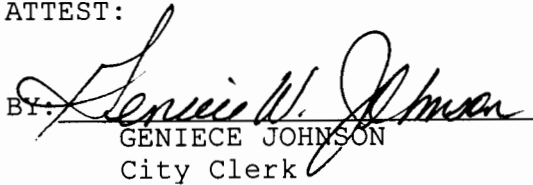
IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease by affixing their signatures and seals on the day and year first above set forth.

LANDLORD:

CITY OF FAIRHOPE, an Alabama
Municipal Corporation

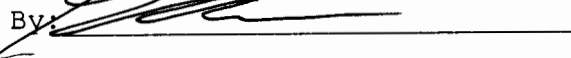
BY: 
TIMOTHY M. KANT
Its: Mayor

ATTEST:

BY: 
GENIECE JOHNSON
City Clerk

TENANT:

EASTERN SHORE MARINE, INC.
An Alabama Corporation

By: 

Edward Wall
Its: President

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that TIMOTHY M. KANT, whose name as Mayor, and GENIECE JOHNSON, whose name as City Clerk of the CITY OF FAIRHOPE, an Alabama Municipal Corporation, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed

of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Municipal Corporation on the day the same bears date.

Given under my hand and seal on this the 29 day of October, 2002

(AFFIX SEAL)

Almon D. Heston
NOTARY PUBLIC
MY COMMISSION EXPIRES: My Commission Expires 03/26/05

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that Edward Wall, whose name as President of EASTERN SHORE MARINE, INC., an Alabama Corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal on this the 30th day of October, 2002.

Seneca W. Johnson
Notary Public
My Commission Expires: My Commission Expires 10/19/05

This Instrument Prepared By:
MARION E. WYNNE
Wilkins, Bankester, Biles & Wynne, P.A.
Post Office Box 1367
Fairhope, AL 36533
(251) 928-1915

EXHIBIT "A"

TO LEASE BETWEEN CITY OF FAIRHOPE, LESSOR
AND EASTERN SHORE MARINE, INC., LESSEE

DESCRIPTION OF AREA TO BE LEASED, TO-WIT:

Commence at the point of intersection of the West right-of-way of Sea Cliff Drive and the division line between Lot A and Lot B in Sea Cliff, a subdivision in the City of Fairhope, Alabama, as shown by map or plat thereof recorded in Deed Book 7, at Page 90-91, Probate Records, Baldwin County, Alabama, as the POINT OF BEGINNING. From said POINT OF BEGINNING run South 36° 04' 27" West, 20.69 feet to a concrete post; thence run South 60° 58' 40" East, 71.55 feet; thence run South 47° 17' 55" East, 93.76 feet to an iron pin marker; thence run South 16° 03' 55" East, 113.7 feet; thence run South 11° 23' 33" East, 139 feet, more or less, to a point of the North margin of Fly Creek; thence run in a Northwestwardly direction, along and following the meanderings of the North margin of said Fly Creek, a distance of 691 feet, more or less, to point of intersection of the North Margin of said Fly Creek with the Eastern margin of Mobile Bay; thence run Northeastwardly along and following the meanderings of said East margin of Mobile Bay, a distance of 205 feet, more or less, to a point on the division line between said Lots A and B; thence run East, 302 feet, more or less, to the Point of Beginning. Tract contains 1.2 acres, more or less, and lies in the William Patterson Grant, Section 8, Township 6 South, Range 2 East, and Baldwin County, Alabama. Less and except, however, any encroachments by a fence lying approximately parallel to and South of the North line of Lot A of Sea Cliff Subdivision.