



REQUEST FOR QUALIFICATIONS

FOR

MARINER'S POINT FUEL DOCK

Located at:

15922 Pacific Coast Highway

CITY OF HUNTINGTON BEACH

Released on September 30, 2015

Submittal Deadline: October 9, 2015 by 4:00 PM

RFQ FOR REPAIR, REHABILITATION AND OPERATION OF MARINER'S POINT FUEL DOCK – 15922 PACIFIC COAST HIGHWAY

I – INTRODUCTION

This Request for Qualifications (RFQ) presents a unique opportunity for the City to identify potential operators to repair, rehabilitate and operate the existing Mariner's Point Fuel Docks at Huntington Harbour (Mariners).

The City Council has authorized staff to identify potential partners through this RFQ process to work with the City on a solution to continue operations of Mariners. The City has not determined the exact business arrangement for operating Mariners and requires respondents to state their preference in their RFQ response. The City cannot complete negotiations and enter into any agreement until the City is able to secure property rights of Mariners. It is the intent of the City to transfer the property rights that the City acquires to the successful Qualified Operator.

The intent of this RFQ is to enable the City to identify highly qualified and capable entities with experience in rehabilitation, maintenance and operation of fuel dock facilities similar to Mariners. The ideal Operator will: (1) have experience and expertise in owning, maintaining and or operating fuel dock facilities; and (2) have financial experience and expertise, including financial capability, and access to project financing for such fuel dock rehabilitation, operations and maintenance. Those responding to this RFQ must provide in their response experience in all aspects of fuel dock repair, rehabilitation and operations, including environmental and entitlement processing, financing, management, marketing and sales for the resulting fuel dock operations.

A. Description

Mariners has served boating residents and visitors of Huntington Harbour since 1983 through a partnership between Nahas Enterprises and Center City Properties, Inc. (Partners). The Partners obtained a lease with the State Lands Commission and have an easement interest in the property to operate Mariners. In June 2015, the City was made aware that the owners of Mariners were planning to permanently close their business. Mariner's owners have stated that the fuel tanks have reached their useful life of 30 years and they are not interested in selling the operation to a private operator.

Mariners is the single source of fuel for the boaters in the harbor, which is estimated to serve a market base of approximately 6,000 boats in the harbor including the OC Sheriff and the Navy. In an effort to address the closure concerns of the boaters and residents of Huntington Harbour, the City is attempting to facilitate a transaction between the owners and potential buyers to preserve operations of Mariners. The City is releasing this RFQ to solicit Qualified Operators.

B. Mariners Project Parameters

The City's goal of the RFQ process is to develop a list of Qualified Operators who can:

1. Repair, rehabilitate and operate the existing Mariner's facilities¹, including three (3) underground fuel tanks, fuel lines and appurtenant facilities and equipment.
2. Create a first class fuel dock facility that operates with the requisite features and amenities that will compliment the surrounding neighborhood and City.
3. At selected Operator's sole cost and expense, lead and conduct all required California Environmental Quality Act (CEQA), environmental clearances, entitlements, permits and measures necessary for the successful rehabilitation and operation of Mariners.
4. Acquire City's anticipated property rights and liabilities.
5. At selected Operator's sole cost, comply with all applicable Federal and State laws regarding all aspects of acquisition, maintenance, remediation, and operation among others.
6. Indemnify and defend the City from all claims and lawsuits whatsoever related to Mariners, and will furnish commercial/general/liability insurance with limits no less than \$5,000,000.

II – SUBMISSION REQUIREMENTS

RFQ's must consist of the following sections in sequence shown below. Where page limits are set, failure to follow guidelines may at City's sole discretion prevent the RFQ from consideration and possible removal from further consideration. For purposes of the evaluation, the Operator team should include information about all relevant members of their team.

1. Cover Letter (1 page)

All submittals should include a cover letter signed by the principal who has the authority to negotiate with the City.

2. Operator's Qualifications (3 pages)

Identification of the Team - Identify the proposed Operator's team, and provide the following information:

- The name of the legal entity and type of organization;
- The name, address, telephone number and email address of the individual and his/her firm which has the authority to represent and make legally binding commitments on behalf of the team;
- The identity of all firms, partners (including silent partners) and the key staff members who would be involved in the repair, rehabilitation and operations process, identifying their roles and expertise. This section of the response should also include the resumes and references for the key team members who will be

¹ The Mariner's facility also includes a floating fuel dock platform of approximately 100 feet x 75 feet.

responsible for the negotiation and implementation of the project, if selected;

- Identifying whether the Operator team members have previously worked together on other similar projects.

Relevant Experience and References – The City is interested in ascertaining the Operator's expertise with regard to projects of this nature and magnitude, including in the California coastal region and/or Orange County area. Please provide a brief description of projects that are most similar in operations and scope to those referenced by this RFQ. Please provide information relating to the Operator's expertise and experience with the following:

- Operation of fuel dock facilities;
- Ability to purchase insurance including environmental indemnity;
- Repair and rehabilitation of existing fuel dock facilities;
- Construction of new fuel dock facilities;
- Working collaboratively with municipalities or other governmental agencies on similar projects;

Provide information about similar fuel dock operation, repair, rehabilitation or construction projects:

- Project name and location;
- Total gross and net land area and gross building area;
- Financial summary, including the total development cost, the mix of debt, equity and any other sources of financing involved;
- Examples of community outreach and participation efforts through the completion of the project;
- Photographs of the project (if constructed);
- Start and completion dates; and
- The names and contact information for references for these projects. Include operations partners, public agencies and financial partners.

3. Financial Capability (2 pages; audited statements – no page limit)

For the ownership entity, all equity partner entities, and key team members, please provide:

- a) Audited financial statements for the last three years;
- b) A statement describing: (1) any litigation in which the entity and/or team members have been a party (include state, county, name and case number) over the last five years; and (2) any instances of revocation of performance bond(s) and/or removal from a project by the entity and/or team members;
- c) A statement regarding any past or current bankruptcy activities.

4. Statement of Qualifications Transmittal

Operators should submit their qualifications to the City at the address provided below. Qualifications must be received by 4:00 p.m. on October 9, 2015. Postmarks, faxes or emails will not be accepted.

Mr. Duran Villegas,
City of Huntington Beach
2000 Main Street, 5th Floor
Huntington Beach, CA 92648

The PDF version of the RFQ can be downloaded at the City's website at <http://www.hbbiz.com>.

Please provide one (1) unbound original and five (5) bound copies of the submission. Facsimile or e-mail copies are not acceptable, although a CD-Rom may be requested by the City. Interviews of prospective Operators may be required.

5. Selection Schedule

The anticipated selection schedule is as follows:

TASK	DATE
1. Release RFQ	September 30, 2015
2. Deadline to submit Statement of Qualifications (SOQ's)	October 9, 2015

6. Conflict of Interest

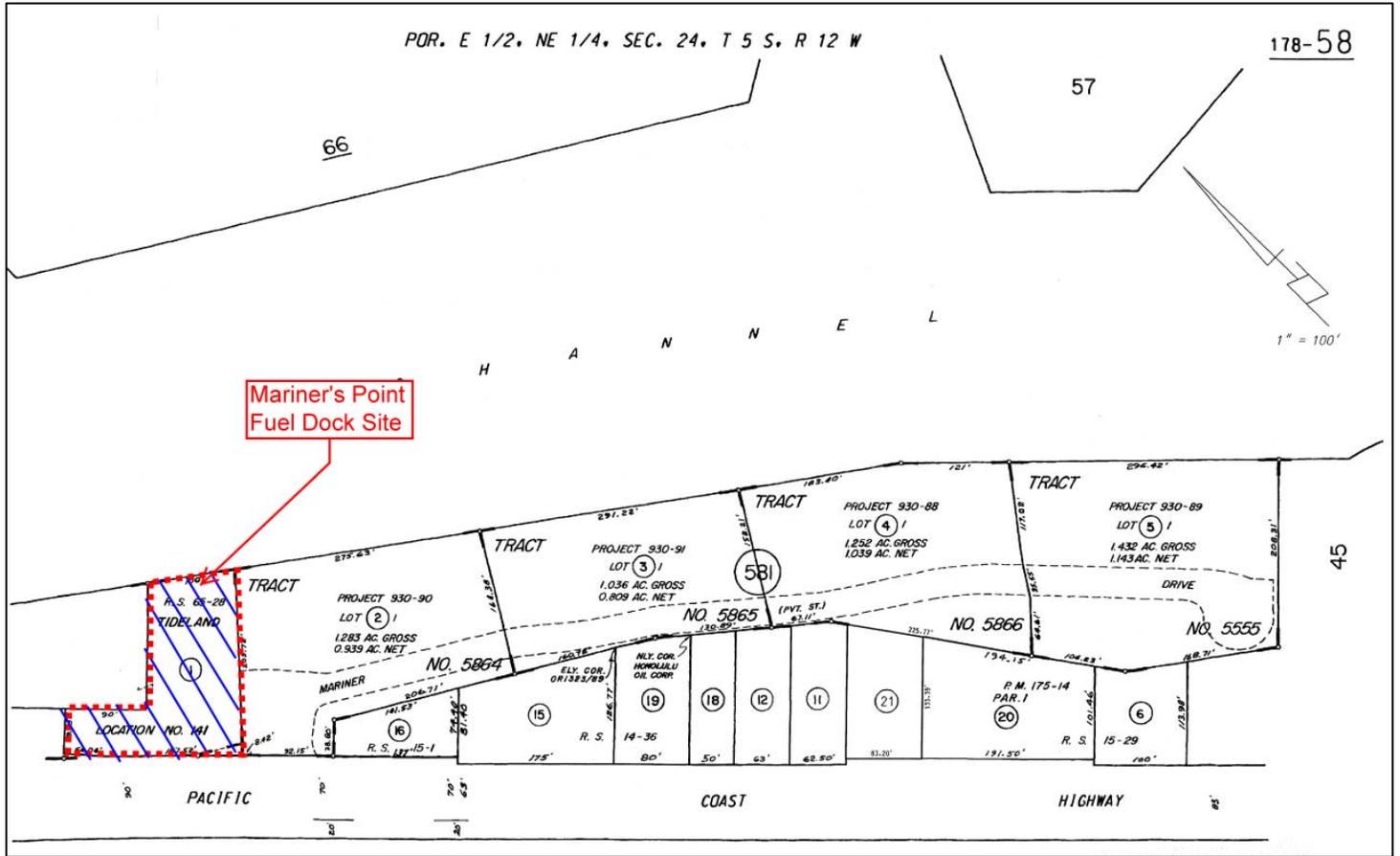
RFQ responses received by the City are subject to all standard City contracting requirements. The City cannot complete negotiations and enter into any agreement until the City is able to secure ownership of Mariners.

III – ATTACHMENTS

- Attachment 1 - Site Map
- Attachment 2 - Aerial View
- Attachment 3 - Site Plan
- Attachment 4 - California State Lands Commission Lease

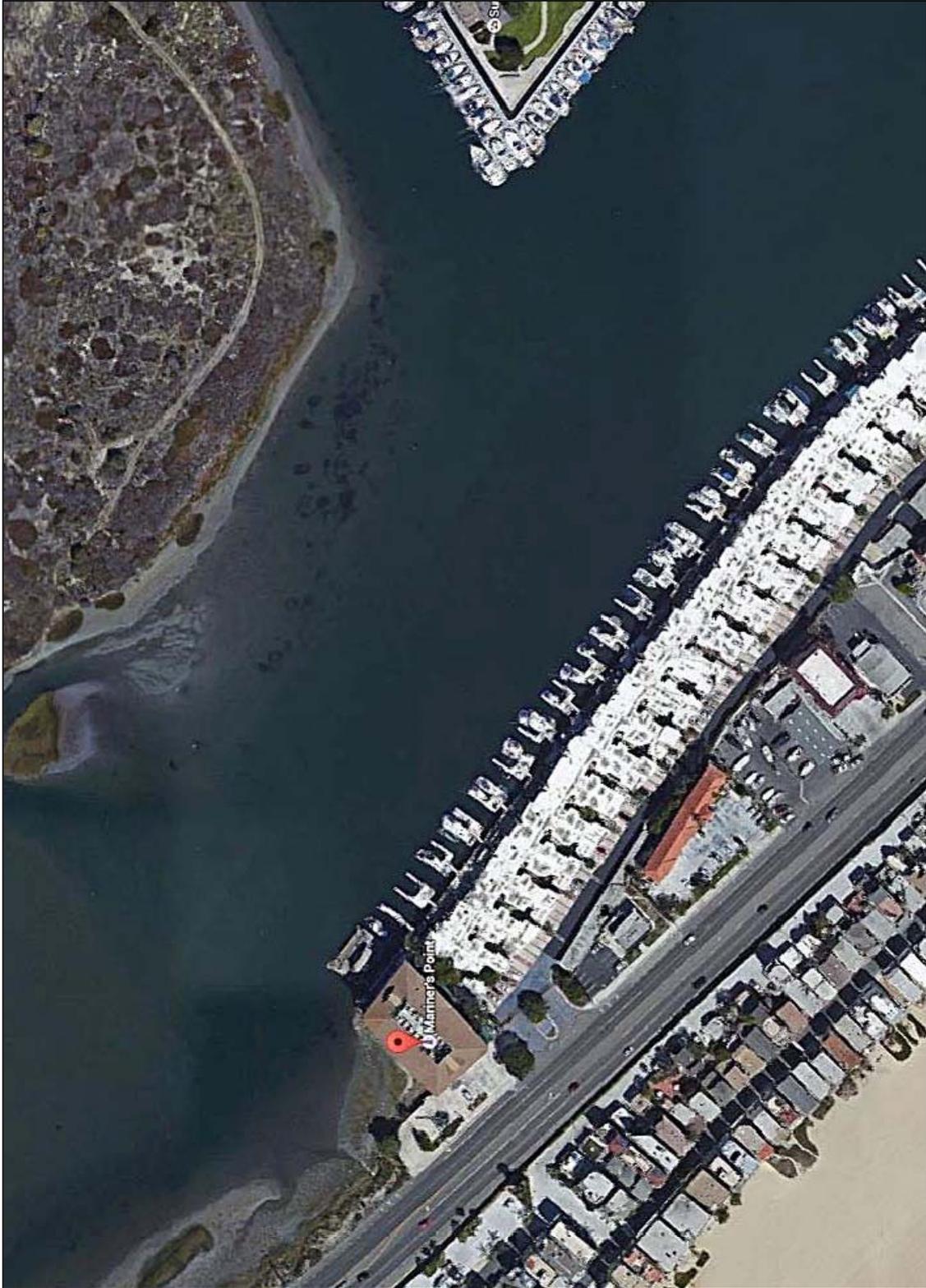
Attachment 1

Site Map



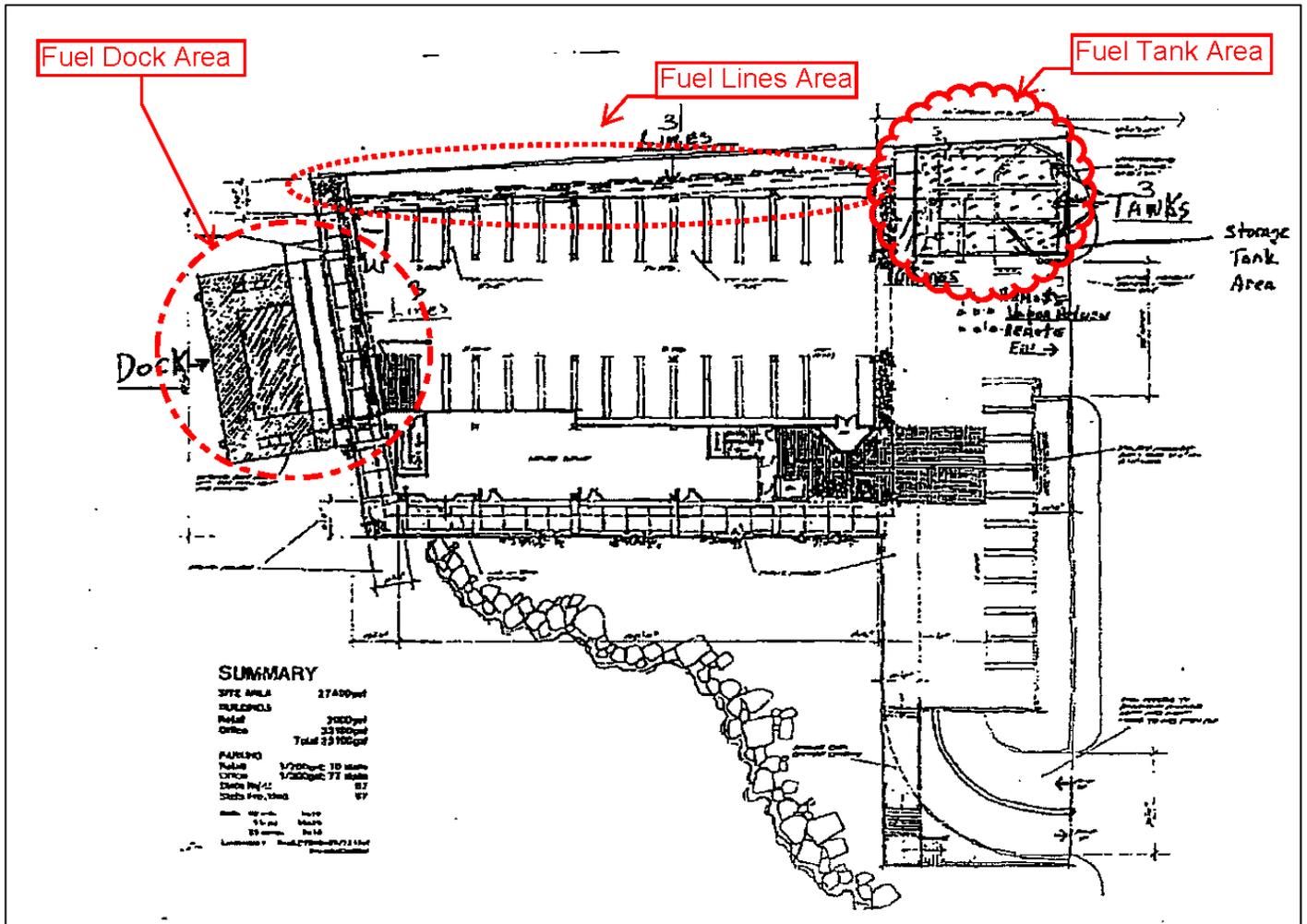
Attachment 2

Aerial View



Attachment 3

Site Plan



Attachment 4

State Lands Commission Lease

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
California State Lands Commission
Attn: Title Unit
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

STATE OF CALIFORNIA
OFFICIAL BUSINESS
Document entitled to free recordation
pursuant to Government Code Section 27383

APN: 178-581-01
County: Orange

SPACE ABOVE THIS LINE FOR RECORDER'S USE

LEASE PRC 3265.1

This Lease consists of this summary and the following attached and incorporated parts:

Section 1	Basic Provisions
Section 2	Special Provisions Amending or Supplementing Section 1 or 4
Section 3	Description of Lease Premises
Section 4	General Provisions
Exhibit A	Best Management Practices for Marina Owners/Operators
Exhibit B	Report of Annual Gross Income

SECTION 1

BASIC PROVISIONS

THE STATE OF CALIFORNIA, hereinafter referred to as Lessor acting by and through the **CALIFORNIA STATE LANDS COMMISSION** (100 Howe Avenue, Suite 100-South, Sacramento, California 95825-8202), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise and let to **Mariner's Point, a California General Partnership**, hereinafter referred to as Lessee, those certain lands described in Section 3 subject to the reservations, terms, covenants and conditions of this Lease.

MAILING ADDRESS: 15922 Pacific Coast Highway
Huntington Beach, CA 92649

LEASE TYPE: General Lease - Commercial Use

LAND TYPE: Sovereign

LOCATION: Sunset Bay, Orange County

LAND USE OR PURPOSE: Use and maintenance of a commercial fuel dock facility

TERM: 15 years; beginning April 1, 2010; ending March 31, 2025, unless sooner terminated as provided under this Lease.

CONSIDERATION: Minimum annual rent of \$8,900; against \$0.015 per gallon of fuel sold up to 100,000 gallons and \$0.02 per gallon thereafter; and 5% of the gross income from all other gross sales. Subject to modification by Lessor as specified in Paragraph 2(b) of Section 4 - General Provisions.

AUTHORIZED IMPROVEMENTS:

X **EXISTING:** Commercial fuel dock facility.

LIABILITY INSURANCE: Coverage of no less than \$2,000,000

SURETY BOND OR OTHER SECURITY: \$ 25,000

**SECTION 2
SPECIAL PROVISIONS**

BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED, REVISED OR SUPPLEMENTED AS FOLLOWS:

1. Lessee must maintain, throughout the term of the lease, upland owners' permission to access the Lease Premises. In the event permission is revoked, the Lease shall terminate.

2. **PERCENTAGE OF GROSS, LEASE:**

Annual Rent:

- (1) \$0.015 per gallon of fuel sold to a maximum of 100,000 gallons and \$0.02 per gallon thereafter.

- (2) Five percent (5%) of the Gross Income from all other sources in the lease area.

Minimum Annual Rental:

Lessee shall pay a minimum annual rental of \$8,900 in advance on the beginning date of this lease and on the lease anniversary date every year thereafter for the remainder of the term of this Lease

It is further agreed by and between the parties hereto as follows:

- (a) Lessee agrees to pay the minimum annual rental state in this lease to Lessor without deduction, delay or offset, at such place as may be designated by Lessor from time to time, in accordance with the schedule as set forth in this lease. Any rental due that is in excess of the minimum annual rental stated in this Lease, shall be due and payable on the same day that the annual report is due, and payment shall accompany such report.
- (b) It is specifically agreed that in the event of the termination of this Lease Prior to its expiration date from any cause whatsoever, no portion of the minimum annual rental paid in advance shall be refundable.
- (c) **DEFINITIONS:** Section 1, Consideration, shall be controlled by the following definitions
 - (a) **Gross Income:** To the extent applicable to activities conducted on this leasehold, Gross Income shall include all income earned on or over the Lease Premises by the Lessee and Operator and including, but not limited to:
 - (i) The sales price of any type of food and/or beverages sold by Lessee, Lessee's subtenants or others whether for cash or credit and whether paid or not;
 - (ii) The sales price of all other goods, wares, merchandise or products sold by Lessee, or others whether for cash or credit and whether paid or not;
 - (iii) Commission received or earned from non-lessee owned coin-operated vending machines or other devices, and all sums deposited in Lessee owned coin-operated vending machines or other devices;
 - (iv) The charges made by the Lessee or others for the berthing, docking, mooring or launching of boats and whether paid or not;

- (v) The charges made by the Lessee or others for the rental of any type of equipment or product, whether for cash or for credit and whether paid or not;
- (vi) Any other income, whether for cash or credit generated directly from, or on, the leased area by the Lessee's or any other person's operations and whether paid or not;
- (b) **Allowable Reductions to Gross Income:** Gross income shall not include any sales or excise taxes payable by the Lessee to federal, state, county or municipal governments as a direct result of operations under this Lease, provided that these taxes are clearly segregated and identified in the Lessee's books and records. Checks, credit card payments returned for insufficient funds or account closures, and credit card fees may also be deducted from gross income provided that these items are clearly segregated and identified in Lessee's books and records.
- (c) **Allowable Reductions to Gross Sales:** Gross sales may be reduced by returns and allowances on the theory that these "sales" were never made, and should not have been included as part of the gross sales, but gross income shall not be reduced by any other amount.
- (d) **Cash:** Cash includes currency, coin, checks, and money orders.
- (e) **Credit:** Credit includes credit card transactions, and those transactions made on open account or for any oral or written promise to pay.
- (f) **Credit Card Fees:** Credit card fees include charges by a third party that deducts from gross sale.
- (g) **Operator for Purposes of Rent Calculation:** Operator shall refer both individually and collectively to Lessee, its sublessees, contractors and concessionaires conducting activities on or over the Lease Premises.

3. ANNUAL REPORT:

Lessee shall submit an annual report for the current reporting period including but not limited to:

- A. Lessee's/Operator's gross income from operations and activities authorized under this Lease to be conducted on or from the Lease Premises;
- B. Lessee's/Operator's gross income from the rental of boat slips and mooring buoys; and
- C. Lessee's/Operator's gross income from all water-oriented commercial activities on or over the Lease Premises.

This report shall be accompanied by an Income Statement detailing Lessee's and/or Operator's operations on the Lease Premises and under this Lease for the prescribed reporting period. These reports shall be due on twenty fifth (25th) day of the month

following the end of the year covered by the annual report. Lessor may elect to provide forms for the Annual Report. The Annual Report form is attached as Exhibit B.

4. **BOOKS AND RECORDS:**

Lessee shall maintain books and records of all financial transactions relating to the Lease Premises in accordance with generally accepted accounting principles. These records shall be supported by source documents such as agreement with renters, copies of invoices, receipts, and other pertinent documents. If requested by the State, the Lessee shall allow representatives of the State Lands Commission to examine copies of Federal and State Income Tax Returns, and Board of Equalization Tax Returns in order to corroborate information shown on reports to the State Lands Commission.

5. **EXAMINATION OF BOOKS AND RECORDS:**

All annual reports submitted to the State Lands Commission are subject to audit and revision by the State Lands Commission and Lessor may inspect all of Lessee's books, records, and documents relating to the operation of the Leased Premises at all reasonable times. Any statutory or other right the Lessee may have to object to such inspection by the State Lands Commission is hereby waived.

6. **BEST MANAGEMENT PRACTICES:**

Lessee agrees to implement the "Best Management Practices for Marina Owners/Operators" contained in Exhibit A attached and by reference made a part of this amendment. Lessor reserves the right to require that additional BMPs be implemented as technology changes, if existing BMPs are not being followed, and/or existing BMPs are found to be ineffective.

7. **REFUSE CONTAINERS:**

Lessee shall provide containers on or immediately adjacent to the leased premises to receive trash and refuse generated aboard vessels using Lessee's docking facilities. Refuse containers shall be located so as to be conveniently used by occupants of vessels using Lessee's facilities and shall be of sufficient size and number to contain the refuse generated aboard all vessels using Lessee's facilities. The containers shall be covered and emptied regularly enough to prevent them from overflowing or creating unhealthful, unsightly or unsanitary conditions. The contents of the containers shall be disposed of by Lessee or others acting pursuant to Lessee's direction at authorized landfills or other garbage reception areas as provided under law applicable at the time of collection.

8. **PLASTICS:**

(a) Lessee shall not provide for sale, or allow other parties to provide, any prepared food in polystyrene foam containers or packaging, nor shall Lessee, or other parties, keep on the Lease Premises any polystyrene foam containers or packaging of a type, design and condition appropriate to the preparation of food for consumption on or off the Lease Premises.

(b) All packaging for prepared food that is consumed on or off the premises, or for takeout service, shall be degradable. Lessee shall provide, upon demand, copies of pair invoices

which verify the purchase of degradable containers in quantities sufficient to validate Lessee's compliance with this provision.

- (c) For purposes of this lease, the following definitions are applicable.
- (1) "Prepared food" means foods or beverages which are prepared on the Lease Premises by cooking, chopping, slicing, mixing, freezing or squeezing, and which require no further preparation to be consumed.
 - (2) "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are not intended for reuse on or in which any foods or beverages are placed or packaged on the Lease premises.
 - (3) "Takeout food" means prepared foods or beverages requiring no further preparation to be consumed and which are purchased in order to be consumed off the Lease Premises.
 - (4) "Polystyrene foam" means any styrene or vinyl chloride polymer which is blown into foam-like materials, an example of which is marked under the trade name "Styrofoam".
 - (5) "Degradable food packaging" means food packaging which within two years substantially reduced to its constituent substances through degradation processes initiated by natural organisms whose end products are substantially, but not necessarily entirely, carbon dioxide and water. Degradable food packaging does not include cellulose-based items which have a synthetic or plastic coating comprising more than 5% of the total volume of the item.
- (d) The above conditions shall be in effect until such time as the State Lands Commission adopts regulations and/or policies on the subject of plastic pollution. To the extent that such policies or regulations differ from the foregoing provisions and definitions, the parties hereby agree that the lease will be amended to incorporate those policies adopted by the State Lands Commission.

9. Lessee acknowledges and agrees:

A. The site may be subject to hazards from natural geophysical phenomena including, but not limited to waves, storm waves, tsunamis, earthquakes and erosion.

B. To unconditionally waive any claim or damage or liability against the State of California, its agencies, officers, agents, and employees for injury or damage from such hazards.

In the event of any conflict between the provisions of Section 2 and Section 4 of this Lease, the provisions of Section 2 shall prevail.

SECTION 3

WP 3265.1

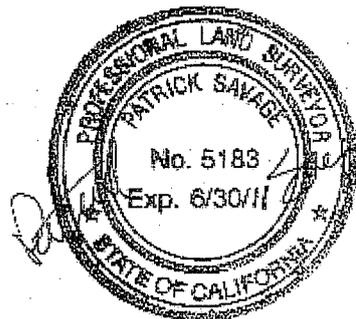
LAND DESCRIPTION

A parcel of submerged land in Sunset Bay, City of Seal Beach, Orange County, State of California, located adjacent to and northeasterly of Tideland Location No. 141 patented to Alamitos Land Company April 4, 1901 and being further described as follows:

BEGINNING at the most northerly corner of Tract No. 5864 recorded book 214 pages 37 through 42 of miscellaneous maps filed in the office of the Orange County Recorder; thence N. 52° 45' 00" W. a distance of 100.00 feet along the northwesterly prolongation of the northeast tract boundary, said northeast tract boundary and its prolongation being coincident with the northeasterly line of said Tideland Location No. 141; thence leaving said tract boundary and northeasterly line, into Sunset Bay, N. 37° 15' 00" E. 75.00 feet; thence S. 52° 45' 00" E. 100.00 feet; thence S. 37° 15' 00" W. 75.00 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

This document was prepared by me or under my supervision.



Patrick J. Savage 6/14/10

Patrick J. Savage P.L.S. 5183

SECTION 4

GENERAL PROVISIONS

1. GENERAL

These provisions are applicable to all leases, permits, rights-of-way, easements, or licenses or other interests in real property conveyed by the State Lands Commission.

2. CONSIDERATION

(a) Categories

(1) Rental

Lessee shall pay the annual rental as stated in this Lease to Lessor without deduction, delay, or offset, on or before the beginning date of this Lease and on or before each anniversary of its beginning date during each year of the Lease term.

(2) Non-Monetary Consideration

If the consideration to Lessor for this Lease is the public use, benefit, health, or safety, Lessor shall have the right to review such consideration at any time and set a monetary rental if the State Lands Commission, at its sole discretion, determines that such action is in the best interest of the State.

(b) Modification

Lessor may modify the method, amount, or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. No such modification shall become effective unless Lessee is given at least thirty (30) days notice prior to the effective date.

(c) Penalty and Interest

Any installments of rental accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 6224 and the Lessor's then existing administrative regulations governing penalty and interest.

3. BOUNDARIES

This Lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary claims which may be asserted presently or in the future.

4. LAND USE

(a) General

Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this Lease or within ninety (90) days of the date set for construction to commence as set forth in this Lease, whichever is later. Lessee shall notify Lessor within ten (10) days after commencing the construction of authorized improvements

and within sixty (60) days after completing them. Lessee's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

(b) Continuous Use

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration.

(c) Repairs and Maintenance

Lessee shall, at its own expense, keep and maintain the Lease Premises and all improvements in good order and repair and in safe condition. Lessor shall have no obligation for such repair and maintenance.

(d) Additions, Alterations, and Removal

(1) Additions - No improvements other than those expressly authorized in this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor.

(2) Alteration or Removal - Except as provided under this Lease, no alteration or removal of improvements on or natural features of the Lease Premises shall be undertaken without the prior written consent of Lessor.

(e) Conservation

Lessee shall practice conservation of water, energy, and other natural resources and shall prevent pollution and harm to the environment. Lessee shall not violate any law or regulation whose purpose is to conserve resources or to protect the environment. Violation of this section shall constitute grounds for termination of the Lease. Lessor, by its executive officer, shall notify Lessee, when in his or her opinion, Lessee has violated the provisions of this section and Lessee shall respond and discontinue the conduct or remedy the condition within 30 days.

(f) Toxics

Lessee shall not manufacture or generate hazardous wastes on the Lease Premises unless specifically authorized under other terms of this Lease. Lessee shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the Lease term and shall comply with and be bound by all applicable provisions of such federal, state or local law, regulation or ordinance dealing with such wastes, substances or materials. Lessee shall notify Lessor and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances, or materials.

(g) Enjoyment

Subject to the provisions of paragraph 5 (a) (2) below, nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitutes a material interference with Lessee's use

and enjoyment of the Lease Premises as provided under this Lease.

(h) Discrimination

Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, religion, national origin, sex, age, or handicap.

(i) Residential Use

No portion of the Lease Premises shall be used as a location for a residence or for the purpose of mooring a structure which is used as a residence. For purposes of this Lease, a residence or floating residence includes but is not limited to boats, barges, houseboats, trailers, cabins, or combinations of such facilities or other such structures which provide overnight accommodations to the Lessee or others.

5. RESERVATIONS, ENCUMBRANCES, AND RIGHTS-OF-WAY

(a) Reservations

- (1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to timber and minerals as defined under Public Resources Code Sections 6401 and 6407, as well as the right to grant leases in and over the Lease Premises for the extraction of such natural resources; however, such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (2) Lessor expressly reserves a right to go on the Lease Premises and all improvements for any purpose associated with this Lease or for carrying out any function required by law, or the rules, regulations or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.
- (3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

(b) Encumbrances

This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances, and claims and is made without warranty by Lessor of title, condition, or fitness of the land for the stated or intended purpose.

6. RULES, REGULATIONS, AND TAXES

(a) Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any other governmental agency or entity having lawful authority and jurisdiction.

(b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtains and maintains all permits or other entitlements.

(c) Lessee accepts responsibility for and agrees to pay any and all possessory interest taxes, assessments, user fees or service charges imposed on or associated with the leasehold interest, improvements or the Lease Premises, and such payment shall not reduce rental due Lessor under this Lease and Lessor shall have no liability for such payment.

7. INDEMNITY

(a) Lessor shall not be liable and Lessee shall indemnify, hold harmless and, at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, arising out of or connected in any way with the issuance, enjoyment or breach of this Lease or Lessee's use of the Lease Premises except for any such liability, claims, damage or injury solely caused by the negligence of Lessor, its officers, agents and employees.

(b) Lessee shall notify Lessor immediately in case of any accident, injury, or casualty on the Lease Premises.

8. INSURANCE

(a) Lessee shall obtain and maintain in full force and effect during the term of this Lease comprehensive general liability insurance and property damage insurance, with such coverage and limits as may be reasonably requested by Lessor from time to time, but in no event for less than the sum(s) specified, insuring Lessee and Lessor against any and all claims or liability arising out of the ownership, use, occupancy, condition or maintenance of the Lease Premises and all improvements.

(b) The insurance policy or policies shall name the State of California, its officers, employees and volunteers as insureds as to the Lease Premises and shall identify the Lease by its assigned number. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The policy (or endorsement) must provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to Lessor. Lessor will not be responsible for any premiums or other assessments on the

policy. The coverage provided by the insured (Lessee) shall be primary and non-contributing.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

9. SURETY BOND

(a) Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants, and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized improvements, alterations or purposes and any modification of consideration.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a corporation, any dissolution, merger, consolidation or other reorganization of Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons, or the sale or other transfer of substantially all the assets of Lessee;

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this Lease is for sovereign lands, it shall be appurtenant to adjoining littoral or riparian land and Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise transfer all or any portion of the Lease Premises, Lessee shall do all of the following:

(1) Give prior written notice to Lessor;

(2) Provide the name and complete business organization and operational structure of the proposed assignee, sublessee, secured third party, or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee. If the proposed assignee, sublessee, or secured third party is a general or limited partnership, or a joint venture, provide a copy of the partnership agreement or joint venture agreement, as applicable;

(3) Provide the terms and conditions of the proposed assignment, sublease, or encumbrance or other transfer;

(4) Provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the Lease Premises; and

(5) Provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

Lessor will evaluate proposed assignees, sublessees, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability; their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(e) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions found in a separately drafted standard form (Agreement and Consent to Encumbrancing of Lease) available from Lessor upon request.

(g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of

or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal, state or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises.

(7) Lessee's failure to comply with applicable provisions of federal, state or local laws or ordinances relating to issues of Health and Safety, or whose purpose is to conserve resources or to protect the environment.

(h) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7,9,11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

(b) Lessee's failure to observe or perform any other term, covenant or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

(c) Remedies

In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may at any time and with or without notice do any one or more of the following:

11. DEFAULT AND REMEDIES

(a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a default or breach of the Lease by Lessee:

- (1) Lessee's failure to make any payment of rental, royalty, or other consideration as required under this Lease;
- (2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease;
- (3) Lessee's vacation or abandonment of the Lease Premises (including the covenant for continuous use as provided for in paragraph 4) during the Lease term;
- (4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements;
- (5) Lessee's failure to comply with all applicable provisions of federal, state or local law, regulation or ordinance dealing with hazardous waste, substances or materials as defined under such law;
- (6) Lessee's Failure to commence to construct and to complete construction of the improvements authorized by this Lease within the time limits specified in this Lease; and/or

- (1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises;
- (2) Terminate this Lease and Lessee's right of possession of the Lease Premises. Such termination shall be effective upon Lessor's giving written notice and upon receipt of such notice, Lessee shall immediately surrender possession of the Lease Premises to Lessor;
- (3) Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises; and/or
- (4) Exercise any other right or remedy which Lessor may have at law or equity.

12. RESTORATION OF LEASE PREMISES

(a) Upon expiration or sooner termination of this Lease, Lessor upon written notice may take title to any or all improvements, including fills, or Lessor may require Lessee to remove all or any such improvements at its sole expense and risk; or Lessor may itself remove or have removed all or any portion of such improvements at Lessee's sole expense. Lessee shall deliver to Lessor such documentation as may be necessary to convey title to such improvements to Lessor free and clear of any liens, mortgages, loans or any other encumbrances.

(b) In removing any such improvements Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to their installation or construction.

(c) All plans for and subsequent removal and restoration shall be to the satisfaction of Lessor and shall be completed within ninety (90) days after the expiration or sooner termination of this Lease or after compliance with paragraph 12(d), whichever is the lesser.

(d) In removing any or all the improvements Lessee shall be required to obtain any permits or other governmental approvals as may then be required by lawful authority.

(e) Lessor may at any time during the Lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or inspection for the presence or suspected presence of hazardous wastes, substances or materials as defined under federal, state or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency(ies) and shall further be responsible for removing or taking other appropriate remedial action regarding such wastes, substances or materials in accordance with applicable federal, state or local law regulation or ordinance.

13. QUITCLAIM

Lessee shall, within ninety (90) days of the expiration or sooner termination of this Lease, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, a written notice by Lessor reciting such failure or refusal shall, from the date of its recordation, be conclusive evidence against Lessee of the termination of this Lease and all other claimants.

14. HOLDING-OVER

Any holding-over by Lessee after the expiration of the Lease term, with or without the express or implied consent of Lessor, shall constitute a tenancy from month to month and not an extension of the Lease term and shall be on the terms, covenants, and conditions of this Lease, except that the annual rental then in effect shall be increased by twenty-five percent (25%).

15. ADDITIONAL PROVISIONS

(a) Waiver

(1) No term, covenant, or condition of this Lease and no default or breach of any such term, covenant or condition shall be deemed to have been waived, by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing.

(2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition of any other default or breach of any term, covenant or condition of this Lease.

(b) Time

Time is of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

(c) Notice

All notices required to be given under this Lease shall be given in writing, sent by U.S. Mail with postage prepaid, to Lessor at the offices of the State Lands Commission and the Lessee at the address specified in this Lease. Lessee shall give Lessor notice of any change in its name or address.

(d) Consent

Where Lessor's consent is required under this Lease its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

(e) Changes

This Lease may be terminated and its term, covenants and conditions amended, revised or supplemented only by mutual written agreement of the parties.

(f) Successors

The terms, covenants and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, successors, and assigns of the respective parties.

(g) Joint and Several Obligation

If more than one Lessee is a party to this Lease, the obligations of the Lessees shall be joint and several.

(h) Captions

The captions of this Lease are not controlling and shall have no effect upon its construction or interpretation.

(i) Severability

If any term, covenant or condition of this Lease is determined by a court of competent jurisdiction to be invalid, it shall be considered deleted and shall not invalidate any of the remaining terms, covenants and conditions.

STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE P.R.C. NO. 3265.1

This lease shall become effective only when approved by and executed on behalf of the State Lands Commission of the State of California and a duly executed copy has been delivered to Lessee. The submission of this Lease by Lessor, its agent, or representative for examination by Lessee does not constitute an option or offer to lease the Lease Premises upon the terms and conditions contained herein, or a reservation of the Lease Premises in favor of Lessee. Lessee's submission of an executed copy of this Lease to Lessor shall constitute an offer to Lessor to lease the Lease Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

LESSEE
MARINER'S POINT,
A CALIFORNIA GENERAL PARTNERSHIP

LESSOR
STATE OF CALIFORNIA
STATE LANDS COMMISSION

By: W.R. Nuss

By: [Signature]

Title: General Partner

Title: Chief, Division of Land Management

Date: 5/9/11

Date: JUL 01 2011

This Lease was authorized by the California State Lands Commission on

6/28/10
(Month Day Year)

ACKNOWLEDGEMENT

*See attached California
all-purpose acknowledgment
7/28/11*

EXHIBIT A

BEST MANAGEMENT PRACTICES FOR MARINA OWNERS / OPERATORS

Petroleum Management

Instruct staff not to use detergents or emulsifiers on a fuel or oil spill.

Post emergency telephone numbers to report oil or chemical spills in prominent locations at the marina.

Recommend the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.

Provide a collection site for used oily pads and used oil or provide information on how and where to dispose of them.

Hazardous Wastes

Have a marina policy to manage hazardous wastes and hazardous materials.

Post a prohibition on the disposal of used oil, antifreeze, paint, solvents, varnishes and batteries into the dumpster or general collection waste receptacles.

If you provide for hazardous waste collection, manage the wastes in a proper fashion through the use of structurally sound, non-leaking containers, in accordance with all local, state and federal laws.

In the event of a spill or leak, clean up and dispose of materials promptly and properly and report the spill to all appropriate entities.

If operating a collection facility is not feasible, provide information to your tenants on how and where to dispose their wastes.

Encourage the use of alternative products to hazardous household chemicals. There are many non-toxic or less-toxic products that can be used as alternatives.

Emergencies

Have an updated map of important shut off valves and make sure all employees know the locations.

Keep your list of Emergency Phone Numbers and contact persons updated.

Be sure that all employees are trained in emergency procedures and that they know their responsibilities for each situation as designed in an Emergency Response Plan.

Underwater Boat Hull Cleaning

Require the use of legal hull paints to reduce the possibility of contamination when performing hull cleaning.

Boat Sewage Discharge

If your marina operates a pump out facility, install adequate signs to identify the station, its location and hours of operation.

Provide the service at convenient times and at a reasonable cost.

Make the pump out station user friendly.

Develop and adhere to a regular inspection and maintenance schedule for the pump out station.

Provide educational information about the pump out station to boaters.

Inform berth holders of existing local, state and federal regulations pertaining to the use of Marine Sanitation Devices and the illegal discharge of boat sewage.

Post a list of local pump out locations in a conspicuous location such as the entrances to the docks.

Solid Waste

Keep litter picked up.

Place trash receptacles and dumpsters in convenient locations for boaters and guests.

Use covered dumpsters and trashcans so they do not fill up with rainwater and do not blow away in heavy winds.

Keep trash enclosures clean and free of debris.

Keep cleanup equipment and materials available.

Inspect trash storage areas regularly.

Dispose of all solid wastes in accordance with local, state and federal laws and regulations.

Liquid Waste

Train marina employees in oil spill response procedures.

Keep adequate spill response equipment and materials in strategic locations.

Storm Water Runoff

Maintain a Storm Water Pollution Prevention Plan.

Report spills that have entered or have a potential to enter a water body to appropriate agencies.

Provide signage adjacent to any storm drain inlet to discourage illegal dumping of pollutants.

Provide signs adjacent to parking lots that prohibit littering, dumping and vehicle servicing or washing.

Develop and implement a regular sweeping / cleaning program for hard surface areas.

Reduce or eliminate landscaping and irrigation runoff into the waterway.

EXHIBIT B
CALIFORNIA STATE LANDS COMMISSION

Report of Annual Gross Income For Lease Year April 1, to March 31,

Please Note: If no percent of gross rental is due, report(s) is(are) still required.

REPORT DUE ON OR BEFORE APRIL 25TH OF EACH YEAR

LESSEE: Mariner's Point, a California General Partnership

PRC: 3265.1

MAILING ADDRESS: 15922 Pacific Coast Highway, Huntington Beach, CA 92649

[] New Address

EFFECTIVE DATE OF LEASE AND RENT IS APRIL 1, 2010

RENTAL BASED ON GROSS INCOME				
Type of Gross Income	\$ Amount of Gross Income	X % Allocable to State	X % Payable to State	RENTAL DUE STATE
ALL SOURCES OTHER THAN FUEL SALES	\$	100%	5%	\$
TOTAL RENTAL BASED ON GROSS INCOME				\$

RENTAL BASED ON FUEL SALES			
Gallons (maximum of 100,000)		X \$.015 =	\$
Gallons (excess of 100,000)		X \$.02 =	\$
Total Gallons Sold During Year			
TOTAL RENTAL BASED ON FUEL SALES			\$

TOTAL RENTAL DUE BASED ON GROSS INCOME	\$
<i>Less Minimum rental paid in advance(Paid on or before "Anniversary Date")</i>	<i>\$ <8,900></i>

TOTAL RENTAL DUE \$

PLEASE ATTACH TO THIS REPORT A BALANCE SHEET OF YOUR OPERATIONS FOR THE ABOVE LEASE AND AN INCOME STATEMENT OF YOUR OPERATIONS FROM THE LEASE PREMISES.

<p>Mail to:</p> <p align="center">California State Lands Commission Attn.: Accounting Unit 100 Howe Avenue, Suite 100 South Sacramento, California 95825-8202</p> <p>Please put the PRC # on your check. Thank you!</p>	<p>CERTIFICATION</p> <p>I certify (or declare) under penalty of perjury that the foregoing is true and correct, and that it is complete to the best of my knowledge and belief.</p> <p align="center">_____ Signature Of Lessee Or Agent</p> <p>Title _____</p> <p>Dated _____</p> <p>At _____</p> <p align="center">(City and State)</p>	<p>VERIFICATION</p> <p>DO NOT WRITE IN THIS SPACE</p> <table border="1"> <tr> <th>AMOUNT</th> <th>C/REF</th> <th>DATE</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table> <p align="center">CALCULATION BY STATE</p> <p align="center">DIFFERENCE</p> <p align="center">_____ CALCULATIONS VERIFIED BY</p>	AMOUNT	C/REF	DATE									
	AMOUNT	C/REF	DATE											

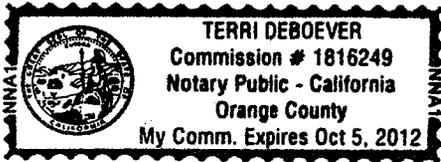
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On 05/09/11 before me, Terri DeBoever Notary Public

personally appeared Donald R. Nuss



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Terri DeBoever

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: State of California - State Lands Commission Lease

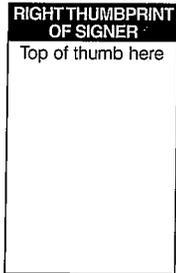
Document Date: 05/09/11 Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

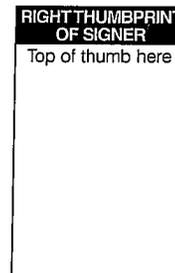
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____