



425 S. Palos Verdes Street Post Office Box 151 San Pedro, CA 90733-0151 TEL/TDD 310 SEA-PORT www.portoflosangeles.org

Antonio R. Villaraigosa

Mayor, City of Los Angeles

Board of Harbor
Commissioners

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Vice President

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Sung Won Sohn, Ph.D.

Geraldine Knatz, Ph.D.

Executive Director

June 7, 2013

Honorable Members of the
City Council of the
City of Los Angeles

CD No. 15

Attention: Mr. Michael Espinosa, City Clerk's Office

SUBJECT: AGREEMENT NO. 13-3125: CABRILLO WAY MARINA OPERATING
AGREEMENT WITH WESTREC MARINA MANAGEMENT, INC.

Pursuant to Section 606 of the City Charter, enclosed for your approval is Agreement No. 13-3125 between the Los Angeles Harbor Department and Westrec Marina Management, Inc. This Agreement was approved by the Board of Harbor Commissioners at its meeting of Thursday, June 6, 2013.

Please note that the Mayor's office is waiving Executive Directive No. 4 review for this item; therefore, no CAO report is attached.

RECOMMENDATION:

1. Approve in accordance with Section 606 of the Los Angeles City Charter, Agreement No. 13-3125 with Westrec Marina Management, Inc.
2. Adopt the determination by the Los Angeles Harbor Department that the proposed action is exempt from the requirements of the Environmental Quality Act (CEQA) in accordance with Article III Class 1(14) of the Los Angeles City CEQA Guidelines; and
3. Return to the Board of Harbor Commissioners for further processing.

Respectfully submitted,


JULIE WICHMANN HUERTA
Commission Secretary

cc: Trade, Commerce & Tourism Committee
Councilman Rosendahl, encs.
Councilman LaBonge, encs.
Councilman Buscaino, encs.
Christine Yee Hollis, CLA, encs.

Alvin Newman, CAO, encs.
Lisa Schechter, CD4, encs.
Aaron Gross Government Affairs, encs.
Robert Henry, encs.
Mandy Morales, Mayor's office, encs.

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RECOMMENDATION APPROVED;
RESOLUTION NO. 13-7499 ADOPTED AND;
AGREEMENT NO. 13-3125 APPROVED
BY THE BOARD OF HARBOR COMMISSIONERS



Executive Director's

Report to the

Board of Harbor Commissioners

JUNE 6, 2013

[Signature]
SECRETARY

DATE: MAY 29, 2013

FROM: REAL ESTATE

SUBJECT: RESOLUTION NO. 137499 - CABRILLO WAY MARINA OPERATING
AGREEMENT WITH WESTREC MARINA MANAGEMENT, INC.

SUMMARY:

The Cabrillo Way Marina (Marina), located within the West Channel Basin in San Pedro, consists of 64.14 acres of water and land area and encompasses 697 recreational berthing slips, a 400 dry boat storage area, two crane hoists, a promenade walkway, and related boater and public facilities.

In August 2010, the City of Los Angeles Harbor Department (Harbor Department) released a Request for Proposal (RFP) for an operator of the Marina. Six proposals were received by the submittal deadline of November 16, 2010. In February 2012, the review panel selected and recommended Westrec Marina Management, Inc. (Westrec) to operate the Marina under a five-year agreement, with two, five-year options for renewal.

Staff is proposing to enter a five-year Operating Agreement with Westrec, with two, five-year options to renew for the operation, management and maintenance of the Marina. The renewal options, at the direction of the Harbor Department, will be based on operational performance evaluations to be conducted annually, as well as monthly and annual monitoring of submitted financial reports and documentation.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that in accordance with the Los Angeles City Charter Section 1022, it is more feasible for an outside contractor to perform recreational marina management services than City employees;
2. Approve the Agreement with Westrec Marina Management, Inc.;
3. Direct the Board Secretary to transmit the Operating Agreement to the City Council for approval pursuant to Charter Sections 606;
4. Authorize the Executive Director to execute and the Board Secretary to attest to the Agreement effective upon approval by City Council; and
5. Adopt Resolution No. 137499.

SUBJECT: OPERATING AGREEMENT WESTREC MARINA MANAGEMENT, INC.

DISCUSSION:

Background/Context – Development of the Cabrillo Way Marina (Transmittal 1) was initiated in February 2009. Construction was conducted in two phases. Phase I was completed on July 1, 2010, and consists of approximately 20.69 acres of land and water and 348 recreational boating slips. Construction of Phase II was completed in November 2011 and provides approximately 43.45 additional new acres of land and water, 349 additional slips, a dry boat storage facility, and related facilities.

Phase I of the Marina is currently operated, managed, and maintained by Westrec under Agreement No. 10-2883. The additional area developed under Phase II remains vacant. The short-term Operating Agreement was approved by the Board at its meeting of June 17, 2010, and provided for the temporary operation of the Marina until a long-term agreement could be executed through the competitive bid process. Under Agreement No. 10-2883, Westrec is required to enter into new slip assignment agreements with each boater on behalf of the Harbor Department, collect rents and deposit funds, and oversee the day-to-day operations of the Marina.

Selection Process – In August 2010, the Harbor Department released an RFP for an operator of the Marina. Six proposals were received by the submittal deadline of November 16, 2010 from the following companies: Beauchamp Realty, Cabrillo Landing, Cabrillo Way LLC (LAYC/Almar), California Yacht, Goldrich & Kest, and Westrec. In April 2011, an evaluation team consisting of five Harbor Department staff members from various divisions familiar with marina operations and a representative from the Los Angeles County Department of Recreation and Beaches, recommended the selection of Cabrillo Way LLC, a joint venture of Los Angeles Yacht Club and Almar Management. Once the respondents were notified of the proposed selection the evaluation team had made, the selection was challenged by another proposer based on a claim that one respondent had gained an unfair advantage through relationships with members of the evaluation team. While there was no evidence regarding a perceived conflict with members of the initial evaluation team, it was decided to convene a new evaluation panel to review the proposals. The six respondents were notified of the second evaluation process in July 2011.

In August 2011, the second evaluation team was established and began the review of the original proposals. The second evaluation team consisted of one Harbor Department staff member and four individuals from the private sector which included an attorney with Musick, Peeler & Garrett; a retired marina manager from the City of Long Beach; an Executive Vice President from Pasha Stevedoring; a retired Vice President from Ports America; and the Harbor Department's Director of Planning & Economic Development. Interviews were held with the proposers on September 27th and October 4th.

Proposal Review - After a review of the written proposals and interviews with each of the respondents, Westrec received the highest score. The results of the evaluation, using the following scoring criteria identified in the RFP are stated below:

SUBJECT: OPERATING AGREEMENT WESTREC MARINA MANAGEMENT, INC.

- Marina management qualifications, experience and references
- Demonstrated success in providing requisite marina management services identified in the RFP
- Financial capability
- General management and operating plan
- Compensation to the Harbor Department
- Quality and responsiveness of proposal

SCORES							
Proposer	Rater #1	Rater #2	Rater #3	Rater #4	Rater #5	Total Score	Average
Proposer 1 - Westrec Marina	97	79.5	83	93	63	415.5	83.1
Proposer 2	79	79	86	96	67	407	81.4
Proposer 3	68	78.5	72	78	52	348.5	69.7
Proposer 4	92	61	83	60	50	346	69.2
Proposer 5	63	77.5	86	78	38	342.5	68.5
Proposer 6	66	67.5	77	55	51	316.5	63.3

Selection Basis – As reflected by the proposal review and evaluation score, Westrec has extensive experience operating marinas, financial capability to assume marina operations, and appropriate management fee and budget assumptions. Westrec has over 20 years of experience managing and operating a number of marinas throughout the United States. Currently, Westrec manages over 25 marina facilities throughout the United States, managing over 12,000 wet and dry slips. Finally, the Harbor Department staff has been very pleased with Westrec's keen attention to detail on all financial reporting matters.

Financial/Budget Assumptions – The recommendation of Westrec is based on practical financial assumptions, including a conservative vacancy rate, realistic expense and revenue projections, and a management fee structure of four percent of gross revenue, the second lowest management fee proposed. Westrec's vacancy rate assumes a 51 percent rate in Year 1, due to the new area under Phase II. Under Westrec's proposal, it is anticipated that the vacancy rate will be reduced to 14 percent in Year 5, as the result of the required marketing plan that is included in the Scope of Work under the proposed Agreement. Westrec's revenue/expense forecasts also appeared to be reasonable, with \$22.8 million in revenues and \$10.6 million in expenses forecasted during the first five-year period.

References – Contacts were made with several entities that have marina management/operating agreements with Westrec. The entities' relationships with Westrec varied in length from two to over 16 years. These included those that were provided as references by Westrec, as well as one that was not provided. Miami-Dade Park & Recreation Department, the Chicago Park District (CPD), U.S. Army Corps of Engineers (USACE), and the City of Stockton were contacted as references provided by Westrec. Additionally, Marina Shores in Portage, Indiana, was contacted but was not used as a reference by Westrec. Westrec's budgets were thorough, financial information submitted to the organizations was consistent and well documented, and Westrec employed effective marketing and programming activities at the marinas.

SUBJECT: OPERATING AGREEMENT WESTREC MARINA MANAGEMENT, INC.

Proposed Agreement Terms – Consistent with the provisions of the RFP, it was determined that a more cost-effective approach to managing the Marina was under an Operating Agreement which also provides increased transparency and accountability of revenue and collections of all slip rate fees, charges, and other associated costs and fees. This new methodology will potentially lead to increased efficiencies of operations and cost controls to provide the Harbor Department optimal revenue generation of the Marina.

Under the proposed Agreement (Transmittal 2), Westrec will receive a monthly management fee, based on four percent of all gross revenue accrued from Marina operations. Consistent with other marina operations throughout greater California and in other states, Westrec will also be responsible for payment of all operational expenses, based on an annual approved budget. The remaining balance of the net operations will be remitted to the Harbor Department on a monthly basis. Stringent reporting and financial controls have been incorporated in the Agreement to insure that there are no cost over-runs and that the Harbor Department is receiving its appropriate share of the revenue. Failure to submit these reporting documents to the Harbor Department on a monthly basis, within a prescribed time period, will be deemed as a basis for potential termination. Furthermore, Westrec will be required to submit financial reports on a yearly basis to substantiate all gross revenue and operational expenses in accordance with an annual budget, approved by the Real Estate Division. Any expenditure by Westrec, not within the context of the approved annual budget, will also require preapproval by the Real Estate Division. Language in the Agreement also allows for an annual audit of all financial matters by the Harbor Department. Finally, any adjustment to slip rate fees and other charges must be approved by the Executive Director to ensure that there is no cost competitive arrangement that would financially disrupt the business and financial models employed at the adjacent marinas, which are under a leasehold arrangement with the Harbor Department.

The following is a summary of the terms of the Operating Agreement:

Term: Five years, with two subsequent five-year options for renewal at the discretion of the Executive Director, for a total term not to exceed 15 years.

Effective Date: Upon approval by the Los Angeles City Council and execution by the Executive Director.

Services to be provided: Management, operation, security, maintenance/repair, and janitorial service to the Marina.

Marketing Plan: Submission of an annual marketing plan, with stated methodologies and objectives, to achieve increased tenancy of the Marina. A specific requirement of the Marketing Plan is that Westrec's efforts are not to impact or impose upon increased vacancy rates of the adjacent San Pedro marinas.

Estimated First Year Operating Revenue and Expenses: See Transmittal 3.

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The above assumptions are based on a pro-forma that takes into consideration that there are current boaters paying slip rate fees below market due to relocation from their previous marina impacted by this new development, and the fact that it will take a certain amount of time for Westrec to obtain full occupancy of the Marina, with 90 percent occupancy generally considered the optimum. Based on these assumptions, estimated first-year revenue to the Harbor Department is \$271,512, due to first year start-up costs. The slip rate increases to bring these boaters to current market will be phased, so as not to create an undue financial burden. For all boaters not impacted by the relocation, and any new boaters, rates charged per linear foot are based on the current market for the entire adjacent Marina area complex, and other local marinas. Language has been added to the Operating Agreement to ensure that there is not any undercutting or incentives to retain boaters from the adjacent marinas. As previously stated, any slip rate increases must be approved by the Executive Director.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Operating Agreement with Westrec for operation, management, and maintenance of both phases of the Cabrillo Way Marina. Phase 1 is currently operated by Westrec, and construction of Phase 2 was completed in November of 2011 and will become operational under this Agreement. Therefore, as an activity involving the issuance of a permit to use an existing facility involving negligible or no expansion of use, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III Class 1 (14) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

Operating Cabrillo Way Marina associated with the proposed Agreement with Westrec will support six direct and eight secondary jobs for the five-county region.

FINANCIAL IMPACT:

Consistent with the RFP criteria and the proposal submitted by Westrec, the following five-year snapshot is provided to demonstrate increased overall revenue to the Harbor Department based on the following assumptions:

- Estimated 85% - 90% occupancy, by year five
- Dry boat storage revenue
- Completion of phased rate increases for under-market slips
- Cost efficiencies of fixed operational and maintenance expenses realized through economy of scale from increased tenancy

DATE: MAY 29, 2013

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
CABRILLO WAY MARINA PROPOSED OPERATING BUDGET						
	YEAR 1 July 2013 - June 2014	YEAR 2 July 2014 - June 2015	YEAR 3 July 2015 - June 2016	YEAR 4 July 2016 - June 2017	YEAR 5 July 2017 - June 2018	TOTAL
TOTAL REVENUE	2,276,043	3,583,391	4,607,009	5,614,023	6,682,677	22,763,142
TOTAL EXPENSES	2,004,531	1,929,932	2,060,514	2,228,102	2,440,579	10,633,658
Estimated Net Income to Port	\$271,512	\$1,653,459	\$2,546,495	\$3,385,921	\$4,272,097	\$12,129,484

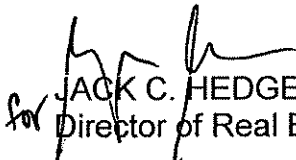
CITY ATTORNEY:

The Operating Agreement has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

1. Site Maps
2. Operating Agreement
3. Estimated First Year Operating Revenue and Expenses

FIS Approval:  (initials)
CA Approval:  (initials)


for JACK C. HEDGE
Director of Real Estate


KATHRYN McDERMOTT
Deputy Executive Director

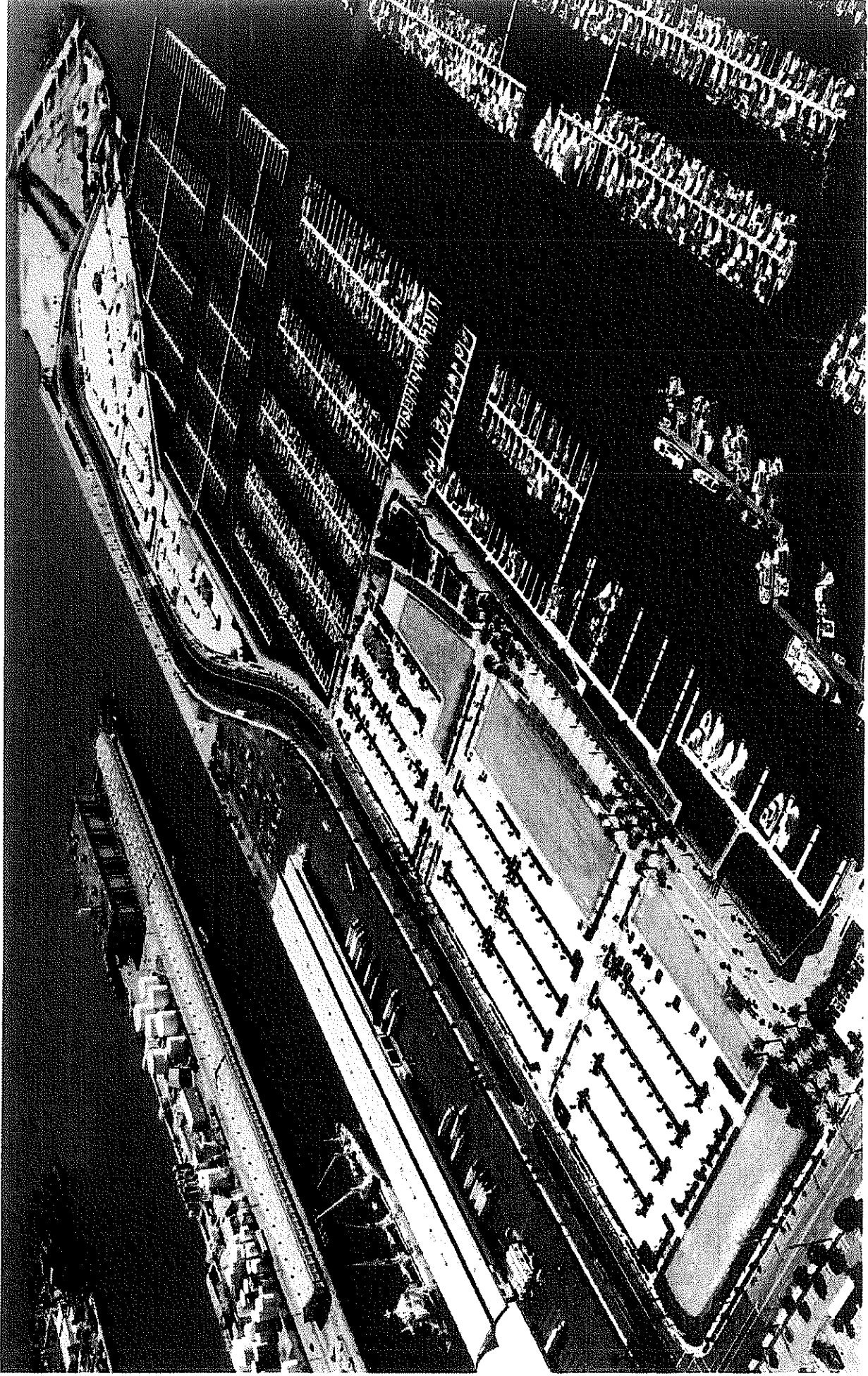
APPROVED:



for GERALDINE KNATZ, Ph.D.
Executive Director

GK:KM:JCH:CCW:raw
Author: Carol Wiancki
BL443raw Westrec

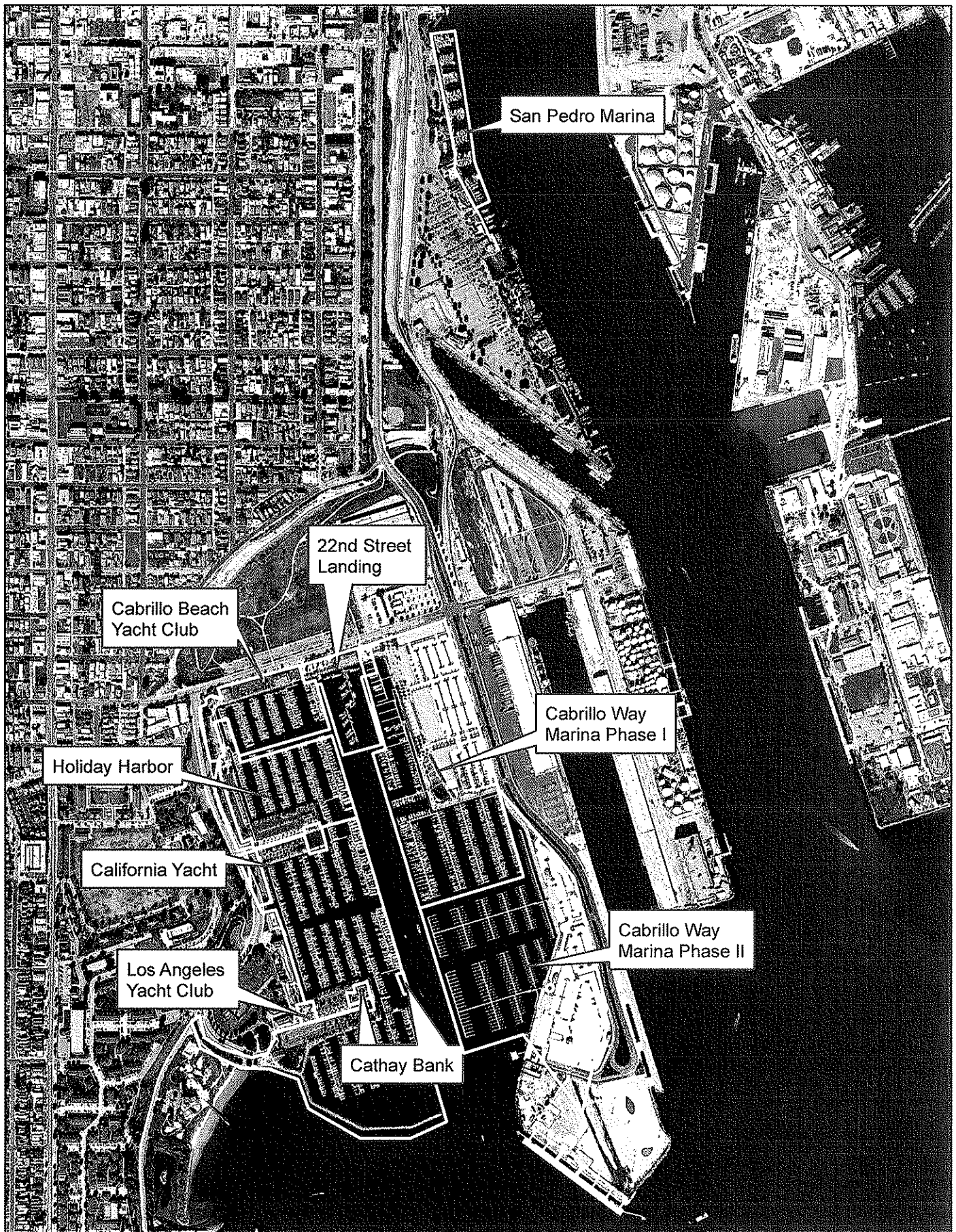
WESTREC MARINA MANAGEMENT, INC.
CABRILLO WAY MARINA



TRANSMITTAL 1

West Basin Marinas

TRANSMITTAL 1A



0 550 1,100 2,200 3,300 Feet

Harbor Department
Planning & Economic Development
Map Produced 5/2013



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AGREEMENT NO. 13-3125

**BETWEEN THE CITY OF LOS ANGELES
AND WESTREC MARINA MANAGEMENT INC.**

THIS AGREEMENT ("Agreement") is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City") acting by and through its Board of Harbor Commissioners ("Board"), and WESTREC MARINA MANAGEMENT INC., a California corporation, whose address is 16633 Ventura Boulevard, 6th Floor, Encino, California 91436 ("Operator") (collectively referred to as the "Parties").

WHEREAS, City requires professional services for the operation, management and maintenance, and security and parking services to the new Cabrillo Way Marina ("Marina") and ancillary facilities and improvements (collectively the "Premises") more particularly depicted on Drawing No. 1-2778, Exhibit A located at the Port of Los Angeles Recreational Complex at Berths 37-43;

WHEREAS, the Board has determined in accordance with the Los Angeles City Charter Section 1022, it is more feasible for an independent contractor to operate, manage, and maintain the Premises than City employees;

WHEREAS, City of Los Angeles Harbor Department ("Harbor Department") published an invitation for Request for Proposals ("RFP" process) for the operation, management, maintenance and security of the Marina;

WHEREAS, Operator submitted a proposal during the RFP process;

WHEREAS, RFP submittals were evaluated by a review panel which concluded Operator best meets the needs of the City;

WHEREAS, Operator possesses extensive experience in operating, managing, maintaining and providing security to facilities similar to the Premises; and,

WHEREAS, Operator, by virtue of training and experience, is well qualified to provide such services to City;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

I. SERVICES TO BE PERFORMED BY OPERATOR

A. Operator hereby agrees to render to City, as an independent contractor, certain professional, technical and expert services and shall be responsible for the operation, maintenance and management of the Premises as set forth in Exhibit B ("Scope of Work").

B. Operator's performance under this Agreement shall at all times be subordinate to City's use, control, and access to Premises. City shall have the sole and exclusive power to authorize business activities, as well as the right to make changes or improvements to Premises.

C. Operator acknowledges and agrees that it lacks authority to perform any services outside the Scope of Work.

D. All rights not specifically granted to Operator by this Agreement are reserved to the City.

E. Subject to the approved Annual Budget outlined in section 5 of Exhibit B, Operator shall procure all office furniture, operational supplies, materials, equipment and services utilized in the operation, management and security of the Premises to perform the Scope of Work. As between City and Operator, Operator is solely responsible for the timely payment of any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, the City, or any other governmental entity.

F. The Scope of Work shall be performed by personnel qualified and competent in the sole reasonable discretion of the Executive Director of the Harbor Department ("Executive Director"), or designee, whether performance is undertaken by Operator or third-parties with whom Operator has contracted ("Subcontractors"). Obligations of this Agreement, whether undertaken by Operator or Subcontractors, are and shall be the responsibility of Operator. Operator acknowledges and agrees that this Agreement creates no rights in Subcontractors with respect to City and that obligations that may be owed to Subcontractors, including, but not limited to, the obligation to pay Subcontractors for services performed, are those of Operator alone. Operator shall supply City's Harbor Department ("Harbor Department") with all agreements, including amendments or agreements that have been superseded, between it and its Subcontractors, all of which shall remain on file with the Harbor Department.

G. This Agreement is subject to each and every of the rates, terms and conditions of Tariff No. 4. of Harbor Department as it now exists or may be amended or superseded ("Tariff"). Except as otherwise set forth in this Agreement, Operator is contractually bound by all Tariff rates, terms and conditions as if the same were set forth in full herein. City in its sole and absolute discretion shall determine if a conflict exists between a provision of this Agreement and a Tariff provision. In the event of such conflict, this Agreement shall at all times prevail. Tariff is available on the Internet at www.portoflosangeles.org under the Finance tab.

II. SERVICES TO BE PERFORMED BY CITY

A. The Harbor Department shall have sole and exclusive control of authorizing business activities within the Premises, and to make changes to and within the Premises or any portion thereof, including without limitation, changes in the location, nature, size, configuration, and number of improvements and facilities.

B. City shall have the right to review all rates, fees, prices or other charges for use of the Premises, for services rendered, or goods sold from the Premises by Operator and City shall have the right to require Operator to alter such rates, fees, prices or other charges.

C. Executive Director shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the interpretation of instructions to Operator and the acceptable completion of this Agreement, and the amount of compensation due.

D. The Executive Director has designated the Harbor Department Real Estate Division ("Real Estate Division") to be Contract Administrator. As Contract Administrator, the Real Estate Division shall cooperate with Operator in the performance of its duties under this Agreement. City agrees to execute all documents and instruments as Operator, in its reasonable

judgment, deems necessary or advisable to enable it to carry out its management of the Premises.

III. NO POSSESSORY INTEREST

No possessory interest in any part of the Marina is conveyed or accrues under this Agreement and Operator acknowledges same. Ownership of the Premises, including the real property, submerged property, buildings, facilities, dock improvements, fixtures, equipment, office furniture, and other property constituting the Premises shall remain with the City. Accordingly, City and Operator agree that nothing in this Agreement shall entitle Operator to file any claim, lien or notice against any real property owned by City. Operator waives any right it may now or hereafter have to record a lis pendens against the Premises property if a dispute arises under this Agreement.

IV. EFFECTIVE DATE AND TERM OF AGREEMENT

A. This Agreement shall become effective on July 1, 2013, subject to approval by the City Council of Los Angeles ("Council") pursuant to Section 606 of City's Charter ("Effective Date").

B. This Agreement shall have an initial term of five (5) years unless earlier terminated according to the provisions herein.

C. City shall have the option to extend the term of this Agreement for two (2) consecutive renewal periods of five (5) years each, for a total Agreement term not to exceed fifteen (15) years from the Effective Date. Exercise of the option to renew shall be by written notice from the Executive Director delivered to Operator not later than ninety (90)-days prior to the expiration of the current term of the Agreement.

D. The decision to exercise or not exercise any five-year option shall be within the sole and absolute discretion of the Executive Director. Should the Executive Director elect to exercise the option, Operator shall be bound by the same terms and conditions contained in this Agreement unless a modification is mutually agreed to by the Parties.

V. EARLY TERMINATION

The Board, in its sole discretion, shall have the right to terminate and cancel all or any part of this Agreement for any reason upon giving Operator ninety (90) calendar days advance written notice of Board's election to cancel and terminate this Agreement. Operator shall be entitled to compensation only for services actually performed prior to such termination. Executive Director, in his or her sole reasonable discretion, shall determine the amount of services actually performed and shall allocate a portion of the total compensation due Operator accordingly. If Board so terminates this Agreement, Operator shall deliver all records, documents, accounts, ledgers, waiting lists, reports, electronic files, agreements and other work product produced pursuant to this Agreement to City in an organized, usable form. No compensation shall be due Operator until it complies with the requirements of this paragraph.

VI. TERMINATION DUE TO NON-APPROPRIATION OF FUNDS

This Agreement is subject to the provisions of the Los Angeles City Charter which, among other things, precludes the City from making any expenditure of funds or incurring any liability, including contractual commitments, in excess of the amount appropriated thereof.

The Board, in awarding this Agreement, has appropriated sufficient funds to meet the estimated expenditure of funds for the first fiscal year; however, the Board is under no legal obligation to appropriate funds for future fiscal year(s).

City, its boards, officers, and employees are not bound by the terms of this Agreement or obligated to make payment thereunder in any fiscal year in which the Board does not appropriate funds therefor. Operator is not entitled to any compensation in any fiscal year in which funds have not been appropriated for the Agreement by the Board.

Although Operator is not obligated or required to perform any services under the Agreement any time in which no appropriation for the Agreement has been made, Operator agrees to resume performance of work required by the Agreement on the same terms and conditions for a period of sixty (60) days after the end of the fiscal year if an appropriation therefor is approved by Board within that 60-day period. Operator is responsible for maintaining all insurance and bonds during this 60-day period. The time for performance shall be extended during this period until the appropriation is made, however, such extension of time is not compensable.

If in any subsequent fiscal year Board does not appropriate funds for work required by this Agreement, the Agreement shall be terminated. However, such termination shall not relieve the Parties of liability for any obligation previously incurred.

VII. COMPENSATION AND PAYMENT

A. As compensation for the satisfactory performance of the services required by this Agreement, City shall pay Operator a management fee of 4% of gross receipts ("Management Fee").

"Gross receipts" is defined as charges, sales, fees and commissions made or earned by Operator, its assignees, subcontractors, licensees and permittees, whether collected or accrued, from any business, use or operation on the Premises pursuant to the Agreement. "Gross Receipts" includes, but is not limited to monies collectible from rentals, services, and the sale or delivery of goods, wares and merchandise and excludes taxes imposed by any government bodies, interest accrued from bank accounts (if applicable) and utility fees collected from tenants.

B. By the 30th of each month, Operator shall remit to City all prior month's Gross Receipts, less operating expenses and Management Fee owed to Operator, accompanied by the Monthly Gross Receipts Remittance Report ("Report") and Statement of Operations, Exhibits C-1 and C-2.

C. Each Report shall be signed by the Operator and shall include the following certification:

"I certify under penalty of perjury that the above Report is just and correct according to the terms of Agreement No. _____."

I further certify that I have complied with the provisions of the City's Living Wage Ordinance."

(Operator's Signature)

D. Operator must include on the face of each Report its Business Tax Registration Certificate number, as required by Article X of this Agreement. No invoice will be processed for payment by City without this number shown thereon. All invoices shall be approved by the Executive Director, or designee, prior to payment. All invoices due and payable and found to be in order shall be paid in the ordinary course of City business.

E. If Operator utilizes Subcontractors to perform aspects of the Scope of Work, Operator shall submit to City, with each monthly report, a Monthly Subconsultant Monitoring Report, using the form attached hereto as Exhibit D. Invoices will not be paid without a completed Monthly Subconsultant Monitoring Report form.

F. For payment, processing, and/or remittance, all reports should be mailed, by the 30th of each month, to the following address:

Accounts Payable Section
Harbor Department, City of Los Angeles
P.O. Box 191
San Pedro, CA 90733-0191

A copy of said invoices and reports should also be mailed to:

Real Estate Division
Harbor Department, City of Los Angeles
P.O. Box 151
San Pedro, CA 90733-0151

Attn: Cabrillo Way Marina Contract Administrator

VIII. RECORDKEEPING, ANNUAL REPORTING AND AUDIT RIGHTS

A. Operator shall keep and maintain full, complete and accurate books of accounts and records of the Scope of Work performed under this Agreement in accordance with generally accepted accounting principles, which books and records shall be readily accessible to and open for inspection and copying by City, its auditors or other authorized representatives. Notwithstanding any other provision of this Agreement, failure to do so shall constitute a conclusive waiver of any right to compensation for such services as are otherwise compensable hereunder. Such books and records shall be maintained by Operator for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

B. During the Term of this Agreement, or extension thereof, City may audit, review and copy any and all writings (as that term is defined in Section 250 of the California Evidence Code) of Operator and Subcontractors arising from or related to this Agreement or performance of the Scope of Work, whether such writings are (a) in final form or not, (b) prepared by Operator, Subcontractors or any individual or entity acting for or on behalf of Operator or a Subcontractor, and (c) without regard to whether such writings have previously been provided to City. Operator

shall be responsible for obtaining access to and providing writings of Subcontractors. Operator shall provide City at Operator's sole cost and expense a copy of all such writings within fourteen (14) calendar days of a written request by City. City's right shall also include inspection at reasonable times of the Operator's office or facilities which are engaged in the performance of the Scope of Work. Operator shall, at no cost to City, furnish reasonable facilities and assistance for such review and audit. Operator's failure to comply with this Article VIII shall constitute a material breach of this Agreement and shall entitle City to withhold any payment due under this Agreement until such breach is cured.

C. Operator shall prepare and provide to Executive Director an annual financial report that includes a balance sheet, actual versus approved annual budget statement, accounts receivable report, and a budget variance analysis (if requested by City). This financial report shall be due July 31 of each fiscal year during the term of this Agreement.

IX. OPERATOR IS AN INDEPENDENT CONTRACTOR

Operator, in the performance of the Scope of Work, is an independent contractor and not an agent or employee of City. Operator shall not represent itself as an agent or employee of the City and shall have no power to bind the City in contract or otherwise.

X. BUSINESS TAX REGISTRATION CERTIFICATE

City's Office of Finance requires the implementation and enforcement of Los Angeles Municipal Code Section 21.09 et seq. This Code Section provides that every person, other than a municipal employee, who engages in any business within City, is required to obtain the necessary Business Tax Registration Certificate and pay business taxes. The City Controller has determined that this Code Section applies to consulting firms that are doing work for City's Harbor Department. See Exhibit E.

XI. INDEMNIFICATION AND INSURANCE

A. Indemnification

Except for the sole negligence or willful misconduct of the City, or any of its boards, officers, agents, employees, assigns and successors in interest, Operator undertakes and agrees to defend, indemnify and hold harmless the City and any and all of its boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants) damages or liability of any nature whatsoever, for death or injury to any person, including Operator's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by Operator or its Subcontractors of any tier. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in the Agreement and those allowed under the laws of the United States, the State of California, and the City.

B. Acceptable Evidence and Approval of Insurance

Electronic submission is the required method of submitting Operator's insurance

documents. Operator's insurance broker or agent shall register with City's online insurance compliance system **Track4LA**™ at <http://track4la.lacity.org/> and submit the appropriate proof of insurance on Operator's behalf.

C. General Liability Insurance

Operator shall procure and maintain in effect throughout the Term of this Agreement, or extension thereof, without requiring additional compensation from the City, commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent consultants, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if Best's is not available) within Operator's normal limits of liability but not less than One Million Dollars (\$1,000,000) combined single limit for injury or claim. Said limits shall provide first dollar coverage except that Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Operator. The retention or self-insurance shall provide that any other insurance maintained by the Harbor Department shall be excess of Operator's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause. Additionally, each policy shall include an additional insured endorsement (CG 2010 or equivalent) naming the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds. Consultant agrees to provide the City with a ten (10)-day notice of cancellation for nonpayment of premium, and a thirty (30)-day notice of cancellation for any other reasons by certified mail, return receipt requested.

D. Fire Legal Liability

In addition to and concurrently with the aforesaid insurance coverage, Operator shall also procure and maintain, fire legal liability insurance with a minimum limit of One Hundred Thousand (\$100,000) per occurrence, covering legal liability of Operator for damage or destruction by fire or explosion to the works, structures and improvements owned by City provided that said minimum limits of liability shall be subject to adjustments by Executive Director to conform with the deductible amount of the fire insurance policy maintained by the Board. Such policy may provide for waiver of subrogation in favor of Operator so long as permitted by the Board's fire insurance policy. The same cancellation notice as required for the commercial general liability policy described above must be included. Operator's insurance broker or agent shall submit for approval on Operator's behalf said insurance to the City's online insurance compliance system **Track4LA**™ at <http://track4la.lacity.org/>.

E. Automobile Liability Insurance

Operator shall procure and maintain at its expense and keep in force at all times during the Term of this Agreement, or extension thereof, automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or alternate guide acceptable to City if Best's is not available) with Operator's normal limits of liability but not less than One Million Dollars (\$1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Additionally, each policy shall include an additional insured

endorsement (CG 2010 or equivalent) naming the City of Los Angeles Harbor Department, its officers, agents and employees as Primary additional insureds. Consultant agrees to provide the City with a ten (10)-day notice of cancellation for nonpayment of premium, and a thirty (30)-day notice of cancellation for any other reasons by certified mail, return receipt requested.

F. Workers' Compensation and Employer's Liability

Operator shall certify that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that Operator shall comply with such provisions before commencing the performance of the task under this Agreement. Coverage for claims under U.S. Longshore and Harbor Workers' Compensation Act, if required under applicable law, shall be included. Operator shall submit Workers' Compensation policies whether underwritten by the State Insurance Fund or private carrier, which provide that the public or private carrier waives its right of subrogation against the City in any circumstance in which it is alleged that actions or omissions of the City contributed to the accident. Such Workers' Compensation and occupational disease requirements shall include coverage for all employees of Operator, and for all employees of any Subcontractor or other vendor retained by Operator.

G. Carrier Requirements

All insurance which Operator is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to City.

H. Notice of Cancellation

Each insurance policy described above shall provide that it will not be canceled or reduced in coverage until after the Board of Harbor Commissioners, Attention: Risk Manager and the City Attorney of City have each been given thirty (30) days' prior written notice by registered mail addressed to 425 S. Palos Verdes Street, San Pedro, California 90731.

I. Modification of Coverage

Executive Director, at his or her discretion, based upon recommendation of independent insurance consultants to City, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the Term hereof, of extension thereof, by giving ninety (90)-days' prior written notice to Operator.

J. Renewal of Policies

At least thirty (30) days prior to the expiration of each policy, Operator shall direct its insurance broker or agent to submit to the City's online insurance compliance system **Track4LA**™ at <http://track4la.lacity.org/> a renewal endorsement or renewal certificate showing that the policy has been renewed or extended or, if new insurance has been obtained, evidence of insurance as specified above. If Operator neglects or fails to secure or maintain the insurance required above, Executive Director may, at his or her own option but without any obligation, obtain such insurance to protect City's interests. The cost of such insurance will be deducted from the next payment due Operator.

K. Right to Self-Insure

Upon written approval by the Executive Director, Operator may self-insure if the following conditions are met:

1. Operator has a formal self-insurance program in place prior to execution of this Agreement. If a corporation, Operator must have a formal resolution of its board of directors authorizing self-insurance.
2. Operator agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Agreement.
3. Operator agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier.
4. Operator agrees that any insurance carried by Harbor Department is excess of Operator's self-insurance and will not contribute to it.
5. Operator provides the name and address of its claims administrator.
6. Operator submits a Financial Statement or Balance Sheet prior to Executive Director's consideration of approval of self-insurance and annually thereafter evidence of financial capacity to cover the self-insurance.
7. Operator agrees to inform the Harbor Department in writing immediately of any change in its status or policy which would materially affect the protection afforded the Harbor Department by this self-insurance.
8. Operator has complied with all laws pertaining to self-insurance.

L. Accident Reports

Operator shall report in writing to Executive Director within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars (\$500.00) to property, occurring upon the premises, or elsewhere within the Port of Los Angeles if Operator's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Operator, its officers or managing agents.

XII. PERSONAL SERVICE AGREEMENT

A. During the Term of this Agreement, or extension thereof, Operator agrees that it will not enter into other contracts or perform any work at the City's marinas without the written permission of the Executive Director where the work may conflict with the interest of the Harbor Department.

B. Operator acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof shall be void provided, however, that Operator may permit Subcontractor (s) to perform portions of the Scope of Work in accordance with Article I. All Subcontractors whom Operator utilizes, however, shall be deemed to be its agents. Subcontractors' performance of the Scope of Work shall not be deemed to release Operator from its obligations under this Agreement or to impose any obligation on City to such Subcontractor(s) or give the Subcontractor (s) any rights against City.

C. It is agreed that any Agreement entered into shall not limit the right of the City to hire additional consultants or perform the services described in this Agreement either during or after the Term of this Agreement.

XIII. AFFIRMATIVE ACTION

Operator, during the performance of this Agreement, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code are incorporated herein by this reference and made a part of this Agreement. All subcontracts awarded shall contain a like nondiscrimination provision. See Exhibit H.

XIV. SMALL/ VERY SMALL BUSINESS PROGRAM AND LOCAL BUSINESS PREFERENCE PROGRAM

It is the policy of the Department to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), Minority-Owned, Women-Owned, Disabled Veteran-Owned and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all City contracts in all areas where such contracts afford such participation opportunities. Consultant shall assist the City in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunity which might be presented under this Agreement. See Exhibit I.

XV. CONFLICT OF INTEREST

Operator has reviewed and understands the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Los Angeles Municipal Code ("LAMC") Municipal Ethics and Conflict of Interest provisions of Section 49.5.1 et seq. and the Conflict of Interest Codes of the City and the Department. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, City may immediately terminate this Agreement by giving written notice thereof. Operator's signature of this Agreement constitutes its affirmation that any former employees of City or the Department that are employed by Operator and that assist in performing the Scope of Work shall be free of any conflicts of interest with respect to City and the Department.

XVI. COMPLIANCE WITH APPLICABLE LAWS

Operator shall at all times in the performance of its obligations comply with all applicable laws, statutes, ordinances, rules and regulations, and with the reasonable requests and directions of Executive Director.

XVII. GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with the Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

XVIII. TRADEMARKS, COPYRIGHTS, AND PATENTS

Operator agrees to save, keep, hold harmless, protect and indemnify City and any of its officers or agents from any damages, cost, or expenses in law or equity from infringement of any patent, trademark, service mark or copyright of any person or persons, or corporations in consequence of the use by City of any materials supplied by Operator in the performance of this Agreement.

XIX. PROPRIETARY INFORMATION

A. Writings, as that term is defined in Section 250 of the California Evidence Code (including, without limitation, drawings, specifications, estimates, reports, records, reference material, data, charts, documents, renderings, computations, computer tapes or disks, submittals and other items of any type whatsoever, whether in the form of writing, figures or delineations) which are obtained, generated, compiled or derived in connection with this Agreement (collectively hereafter referred to as "property"), are owned by City as soon as they are developed, whether in draft or final form. City has the right to use or permit the use of property and any ideas or methods represented by such property for any purpose and at any time without compensation other than that provided in this Agreement. Consultant hereby warrants and represents that City at all times owns rights provided for in this section free and clear of all third-party claims whether presently existing or arising in the future, whether or not presently known. Consultant need not obtain for City the right to use any idea, design, method, material, equipment or other matter which is the subject of a valid patent, unless such patent is owned by Consultant or one of its employees, or its Subcontractors or the Subcontractor's employees, in which case such right shall be obtained without additional compensation. Whether or not Consultant's initial proposal or proposals made during this Agreement are accepted by City, it is agreed that all information of any nature whatsoever connected with the Scope of Work, regardless of the form of communication, which has been or may be given by Consultant, its Subcontractors or on either's behalf, whether prior or subsequent to this Agreement becoming effective, to the City, its boards, officers, agents or employees, is not given in confidence.

Accordingly, City or its designees may use or disclose such information without liability of any kind, except as may arise under valid patents.

B. If research or development is furnished in connection with this Agreement and if, in the course of such research or development, patentable work product is produced by Consultant, its officer, agents, employees, or Subcontractors, the City shall have, without cost or

expense to it, an irrevocable, non-exclusive royalty-free license to make and use, itself or by anyone on its behalf, such work product in connection with any activity now or hereafter engaged in or permitted by City. Upon City's request, Consultant, at its sole cost and expense, shall promptly furnish or obtain from the appropriate person a form of license satisfactory to City. It is expressly understood and agreed that, as between City and Consultant, the referenced license shall arise for City's benefit immediately upon the production of the work product, and is not dependent on the written license specified above. City may transfer such license to its successors in the operation of ownership of any real or personal property now or hereafter owned or operated by City.

XX. CONFIDENTIALITY

The date, documents, reports, or other materials which contain information relating to the review, documentation, analysis and evaluation of the work described in this Agreement and any recommendations made by Operator relative thereto shall be considered confidential and shall not be reproduced, altered, used or disseminated by Operator or its employees or agents in any manner except and only to the extent necessary in the performance of the work under this Agreement. In addition, Operator is required to safeguard such information from access by unauthorized personnel.

XXI. NOTICES

In all cases where written notice is required or permitted under this Agreement, it shall be personally delivered or mailed, United States mail first class postage prepaid or delivered by an overnight delivery service to the respective addresses of the Parties set forth below. Any notice required by this Agreement will be deemed to have been given and received when personally served or one (1) day after delivery to an overnight delivery service or five (5) days after deposit in first class mail. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

For the purposes hereof, unless otherwise provided by notice in writing from the respective parties, notices shall be addressed as set forth below.

To the City: Harbor Department, City of Los Angeles
P.O. Box 151
San Pedro, CA 90731
Attn: Director of Real Estate

With Copy to: Harbor Department, City of Los Angeles
P.O. Box 151
San Pedro, CA 90731
Attn: General Counsel

To Westrec: Westrec Marina Management, Inc.
16633 Ventura Boulevard, 6th Floor
Encino, CA 91436
Attn: William Anderson, President

With copy to: Westrec Marina
2293 W. Miner Street
San Pedro, CA 90731
Attn: Tom Welch, Regional Manager

XXII. TAXPAYER IDENTIFICATION NUMBER ("TIN")

The Internal Revenue Service (IRS) requires that all consultants and providers of materials and supplies submit a TIN to the party that pays them. Operator declares that its authorized TIN is 95 - 4126525. No payments will be made under this Agreement without a valid TIN.

XXIII. SERVICE CONTRACTOR WORKER RETENTION POLICY AND LIVING WAGE POLICY REQUIREMENTS

The Board adopted Resolution No. 5771 on January 13, 1999, agreeing to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention ("SCWR"), Section 10.36 et seq. of the Los Angeles Administrative Code, as the policy of the Harbor Department. Further, Charter Section 378 requires compliance with the City's Living Wage requirements as set forth by ordinance, Section 10.37 et seq. of the Los Angeles Administrative Code. Operator shall comply with the policy wherever applicable. Violation of this provision, where applicable, shall entitle City to terminate this Agreement and otherwise pursue legal remedies that may be available.

XXIV. WAGE AND EARNINGS ASSIGNMENT ORDERS / NOTICES OF ASSIGNMENT

Operator and Subcontractors are obligated to fully comply with all applicable state and federal employment reporting requirements for Operator and Subcontractor's employees.

Operator and Subcontractors shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignments applicable to them personally. Operator and Subcontractors shall fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with Section 5230 et seq. of the California Family Code.

XXV. EQUAL BENEFITS POLICY

The Board adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of Los Angeles City Ordinance No. 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 et seq. of the Los Angeles Administrative Code, as a policy of the Department. Operator shall comply with the policy wherever applicable. Violation of this policy shall entitle the City to terminate any agreement with Operator and pursue any and all other legal remedies that may be available. See Exhibit J.

XXVI. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)

The consultant, Subcontractors, and their principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the agreement is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Consultant is required to provide and update certain information to the City as specified by law. Any consultant subject to Charter Section 470(c)(12), shall include the following notice in any contract with a Subcontractor expected to receive at least \$100,000 for performance under this Agreement:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions as provided in Charter Section 470(c)(12) and related ordinances, you are a Subcontractor on Harbor Department Agreement No. _____. Pursuant to City Charter Section 470(c)(12), Subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for twelve (12) months after the Agreement is signed. Subcontractor is required to provide to Consultant names and addresses of the Subcontractor's principals and contact information and shall update that information if it changes during the 12-month time period. Subcontractor's information must be provided to Consultant within 10 business days. Failure to comply may result in termination of the Agreement or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling (213) 978-1960.

Consultant, Subcontractors, and their principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

XXVII. STATE TIDELANDS GRANTS

This Agreement is entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, this Agreement is at all times subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929 (Stats. 1929, Ch. 651), as amended, and provisions of Article VI of the Charter of the City of Los Angeles relating to such lands. Operator agrees that any interpretation of this Agreement and the terms contained herein must be consistent with such limitations, conditions, restrictions and reservations.

XXVIII. INTEGRATED AGREEMENT

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the Parties. Each Party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

XXIX. SEVERABILITY

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law, public policy, or city charter, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or

provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the Parties as closely as possible.

XXX. CONSTRUCTION OF AGREEMENT

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

XXXI. TITLES AND CAPTIONS

The Parties have inserted the Article titles in this Agreement only as a matter of convenience and for reference, and the Article titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the Parties including any particular provision in this Agreement.

XXXII. MODIFICATION IN WRITING

This Agreement may be modified only by written agreement of all Parties. Any such modifications are subject to all applicable approval processes required by, without limitation, City's Charter and City's Administrative Code.

XXXIII. WAIVER

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

XXXIV. EXHIBITS; ARTICLES

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to Articles are to Articles of this Agreement unless stated otherwise.

XXXV. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together on and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date next to their signatures.

THE CITY OF LOS ANGELES, by its Board
of Harbor Commissioners

Dated: _____

By _____
Executive Director

Attest: _____
Secretary

Dated: 5/30/2013

OPERATOR

By 

William Anderson
WESTREC MARINA
MANAGEMENT, INC.

Attest Mary Pastore

MARY PASTORE
(Print/type name and title)

APPROVED AS TO FORM

_____, 2013
CARMEN A. TRUTANICH, City Attorney

By _____
MINAH PARK, Deputy City Attorney

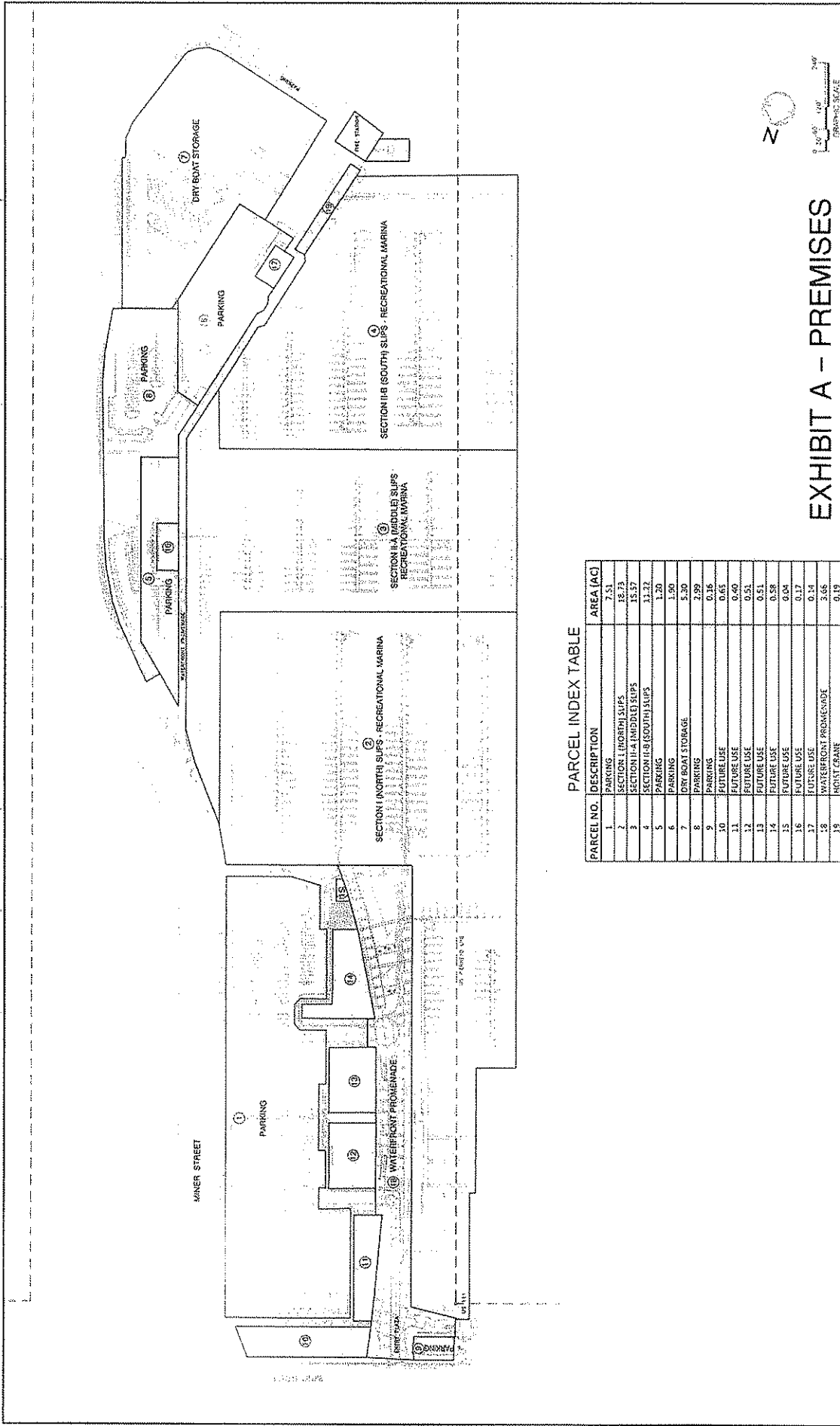


EXHIBIT A - PREMISES

PARCEL INDEX TABLE

PARCEL NO.	DESCRIPTION	AREA (AC)
1	PARKING	7.51
2	SECTION I (NORTH) SLIPS	12.73
3	SECTION II (MIDDLE) SLIPS	15.37
4	SECTION III (SOUTH) SLIPS	11.22
5	PARKING	1.20
6	PARKING	1.90
7	DRY BOAT STORAGE	5.30
8	PARKING	2.99
9	PARKING	0.16
10	FUTURE USE	0.65
11	FUTURE USE	0.40
12	FUTURE USE	0.31
13	FUTURE USE	0.51
14	FUTURE USE	0.38
15	FUTURE USE	0.04
16	FUTURE USE	0.17
17	FUTURE USE	0.14
18	WATERFRONT PROMENADE	3.68
19	BOAT CRANE	0.19

CABILLO WAY MARINA		PARCEL INDEX MAP	
THE ENGINEERING DIVISION		1-2778 EXH-2	
1425 N. GARDEN STREET SUITE 100 LOS ANGELES, CA 90015			
LA			
1-2778 EXH-2			

EXHIBIT "B"

SCOPE OF WORK

Operator shall have the authority to fully and completely direct all day-to-day matters associated with operating the Premises.

1. PREMISES

1.1 Description of Improvements. The Premises, as depicted on Exhibit A, per Harbor Engineer's Drawing No. 1-2778, include the following improvements: slips, dry boat storage, crane hoists, boater facilities, public restroom, landscaping, parking areas, buildings, structures, amenities, utility connections, equipment and all other improvements associated with the authorized use and operation under the Agreement. Improvements are described in greater detail as set forth below.

- 1.1.1 Slips. Six hundred ninety-seven (697) recreational slips, with slip sizes ranging from twenty-eight feet (28 ft.) to one hundred thirty feet (130 ft.) as detailed in Attachment 1, Cabrillo Way Marina Slip Inventory. All references to the term "slip," mean a designated berth for mooring of a boat. Also known as a wet slip or berthing slip. While the Marina has been established for the mooring of vessels, in-slip boat maintenance and minor repairs are allowable only as provided in the Harbor Department's Cabrillo Marina Rules ("Marina Rules"), Attachment 2, to be attached and incorporated in all rental agreements.
- 1.1.2 Dry Boat Storage. The dry boat storage area includes accommodations for out-of-water vessel storage for approximately four hundred (400) boats and trailers. Storage stalls range from eighteen feet (18 ft.) to forty-six feet (46 ft.) in length, and nine feet (9 ft.) to ten feet (10 ft.) in width. See Exhibit A, Parcel 7, Dry Boat Storage. Storage of a trailer in the dry boat storage area is allowable only when paired with a vessel. Boat repairs are allowable only as provided in the Marina Rules and in the rental agreements.
- 1.1.3 Crane Hoists. Two (2) crane hoists are provided for dry boat storage use. The crane hoists can lift a reasonable variety of boats up to forty-five (45 ft.) in length, depending upon the weight capacity of the crane hoists.
- 1.1.4 Boater Facilities. Boater facilities consist of three (3) restroom and laundry facilities. One facility each is allocated for men, women and laundry. Provisions of each facility are listed below.
 - Men's facility:* two (2) bathroom stalls, two (2) urinals, and two (2) showers
 - Women's facility:* four (4) bathroom stalls and two (2) showers
 - Laundry facility:* two (2) washer hook-ups and two (2) dryer hook-ups
- 1.1.5 Public Restrooms. Three (3) public restroom facilities are provided: two (2) stalls for women, one (1) stall and one (1) urinal for men.
- 1.1.6 Landscaping. The landscaped Premises include flowerbeds, groundcover, shrubs, trees, turf, and irrigation improvements.

EXHIBIT "B"

1.1.7 Parking. A total of 1,256 parking spaces are located within the various parking areas, identified within Premises, Exhibit A.

1.1.8 Other Improvements. Other improvements generally include, but are not limited to, docks, slips, gangways, promenade walkways, light poles, utility connections, marina offices, and security office/shack.

1.2 City Ownership of Improvements. Upon the expiration of this Agreement, for any reason, all existing and any future installed fixtures, equipment (including all office furniture), improvements and appurtenances attached to or built into the Premises or in such a manner as to become part of the Premises whether or not by the expense of Operator, shall become and remain a part of and be surrendered with the Premises. Any furniture, furnishings, equipment or other articles of moveable personal property owned by Operator and located on Premises shall be and remain the property of Operator and may be removed by it at any time during the term of this Agreement so long as Operator is not in default of any obligations under this Agreement and the same has not become part of the Premises and so long as such do not materially affect Operator's ability to use such Premises and conduct its business as provided herein.

2. SLIP AND DRY BOAT STORAGE RENTALS

2.1 Rental Rates and Fees. The City shall set all slip rates, rates for crane hoist operations and any other rates and fees related to Marina operations. Such rates shall be consistent with the amounts set forth in Attachment 3, Slip Rates and Fees. City shall approve any changes to rental rates and associated fees, in advance and in writing.

2.1.1. Boat Slip Rates. Operator shall collect all fees associated with the rental of slip space. Boat slip rates, including guest slips, shall be based on either the vessel or the slip, whichever is longer. Slip rental rates do not include charges for electricity. The rental rates for slip tenants shall generally reflect current market rates levied by adjacent marinas. In no event shall the rates compromise the economic viability of those marinas.

2.1.2. Wait List Fee. Operator shall collect fees for the wait list in accordance with the current rental documents. The wait list deposit shall be applied toward the security deposit when applicant is assigned slip space.

2.1.3. Refundable Fee. The fee charged for the slip wait list shall be fully refundable if the applicant does not complete the slip transaction.

2.1.4. Liveaboards. In addition to the slip rate, the Operator shall collect an additional fee per boat.

2.1.4.1 Liveaboard Slip Inventory. Five percent (5%) of the six hundred ninety-seven (697) slips shall be afforded to liveaboard inventory, which is equal to and shall not exceed a maximum of thirty-five (35) liveaboard slips in the Premises at any time. The Executive Director of the City of Los Angeles Harbor Department, ("Executive Director"), or designee, may

EXHIBIT "B"

authorize an increase in the liveaboard allowance up to ten percent (10%), if sufficient boater facilities are available.

2.1.4.2 Liveaboard Fee. In addition to the slip rate, a fee of 40 percent (40%) of the slip rate shall be charged for each boat authorized liveaboard status.

2.1.4.3 Maximum Liveaboard Occupancy. Liveaboard occupancy is limited to a maximum of three (3) occupants per authorized liveaboard vessel. The Operator may authorize, in writing, additional occupants for large boats with permanent crews.

2.1.5 Dry Boat Storage Rates. Operator shall collect all rates and fees associated with the rental of dry boat storage stalls. City shall approve rates and fees associated with dry boat storage, in advance, and in writing.

2.1.5.1 Wait List Fee. The wait list deposit shall be applied toward the security deposit when applicant is assigned a dry boat storage stall.

2.1.5.2 Refundable Fee. The fee charged for the dry boat storage wait list shall be fully refundable if the applicant does not complete the stall transaction.

2.1.6 Utility Fees. City will provide electricity, water and sewer services to the entire Premises, including the office building, at no charge to the Operator. Consistent with the approved Annual Budget, Operator shall be responsible for the cost of telephone service used in the office building and trash service for the entire Premises.

2.1.6.1 Marina Tenant Utility Use. Operator shall collect and remit to City fees from Marina tenants for electricity usage based on actual kilowatt-hour usage as recorded by the meter at each slip and the actual kilowatt-hour.

2.1.7 Other Fees. Operator shall pay for City fees including license fees, permit fees, impact fees, or inspection fees applicable to any work Operator performs on Premises. All permit or regulatory fees or costs shall be paid directly by Operator, subject to the approved Annual Budget or any subsequent approvals. City is not responsible for any penalty fees for improper work or fees related to inspections for improper work.

2.2 Rental Increases.

2.2.1 Economic Impact. In no event shall rental rates compromise the economic viability of adjacent marinas located within the Port of Los Angeles complex.

2.2.2 Slip Rate Increases. Upon the Effective Date of the Agreement, Operator shall provide all current slip tenants with a thirty (30) day written notice of intent to increase slip rates. The rate increases shall be in accordance with Attachment 3, Slip Rate Fees.

2.2.3 Dry Boat Storage Rate Increases. Increases of dry boat storage rental rates shall be applied in accordance with Attachment 3.

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2.3 Rental Agreements. Operator shall enter into written and signed rental agreements with Marina tenants. The form of agreement shall be reviewed and approved in advance, and in writing, by the City. A sample agreement is provided in Attachment 4, Slip Assignment Agreement.

2.3.1 Rental Documents. Rental applications and agreements shall be used for all boat owners renting slip space and dry boat storage stalls on the Premises. Operator shall confirm Marina tenants' acknowledgement, understanding and completion of appropriate applications and agreements. Rental documents for the dry boat storage area shall be developed by Operator within forty-five (45) days of the Effective Date of the Agreement. All rental documents, and/or changes to the rental documents, shall be reviewed and approved in advance, and in writing, by the City.

2.3.2. Rental Applications. Operator shall utilize an application process for all proposed rentals on the Premises.

2.3.3 Completion of Rental Applications. Operator shall confirm each boat owner's acknowledgement, understanding, and completion of the respective rental applications.

2.4 Yacht Clubs. Operator shall coordinate with yacht clubs located adjacent to the Premises to facilitate the allocation of slip assignments.

2.4.1 Yacht Club Coordination Process. Coordination of yacht club slip assignments during the first five (5) years of the Agreement shall be subject to provisions set forth below.

2.4.1.1 During the first five (5) years of operations, Operator may be required to offer preferential slip rights to the Buccaneer Yacht Club ("Buccaneer") and the Los Angeles Yacht Club ("LAYC").

2.4.1.2 Slip allocations will be located adjacent to the respective Buccaneer and LAYC yacht clubs proposed building development pads within the Phase II area as depicted on Exhibit A, Proposed Yacht Club Development Pads, Parcel Nos. 16 and 17.

2.4.1.3 Preferential rights to Buccaneer and LAYC clubs shall not exceed ninety (90) slips total, unless approved in writing by the Executive Director.

2.4.2 Potential Ground Lease Opportunities. Throughout the term of this Agreement, including options periods, the City may, at its sole discretion, offer certain ground lease opportunities to third parties.

2.5 Marina Tenant Lists.

2.5.1 Slip Tenants. Operator shall maintain, on the Premises, a comprehensive list of slip tenants and shall include occupants' names, slip size, slip assignment, corresponding slip rental rates, and vessel information.

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- 2.5.2 Liveaboard Tenants. Operator shall maintain, on the Premises, a separate comprehensive list of liveaboard tenants and shall include all information required of slip tenants above.
- 2.5.3 Dry Boat Storage Tenants. Operator shall maintain, on the Premises, a comprehensive list of all dry boat storage tenants. Such list shall include vessel and trailer information, names of vessel owners, stall assignments, and corresponding stall rates.
- 2.5.4 Tenant List Report. Upon request from the City, the Operator shall prepare and submit a comprehensive report that shall include all information listed above in 2.5.1 through 2.5.3.

3. ADMINISTRATION

3.1 Billing and Collection

- 3.1.1 Billing. Operator shall analyze and direct the billing and collection of all accounts receivable due to the City with respect to authorized uses and operation pursuant to the Agreement.
- 3.1.2 Collect and Remit. Operator shall collect and remit all revenue (less expenses and Management Fee), including slip rentals and deposits, dry boat storage rentals and deposits, security deposits, key deposits, laundry machine revenue, coin operated machines, utility fees and all other receipts derived from authorized uses and operation, pursuant to the Agreement.
- 3.1.3 Funds Control. Operator shall establish policies and procedures for cash controls and handling of all Marina collections.
- 3.1.4 Delinquent and Insufficient Payments. Operator shall actively pursue delinquent accounts. Further, Operator shall establish policies and procedures to minimize the amount of delinquent payments and rental payments returned due to insufficient funds.

3.2 Personnel

- 3.2.1 Staff Training. Operator shall provide basic training and licensing to staff to conduct Marina operations in accordance with all applicable federal, state and local regulations, including requirements of the City. Continued training and licensing will be in accordance with the approved Annual Budget.
- 3.2.2 Dress Code. Operator shall implement and enforce a dress code for on-site personnel, and provide uniforms and identification badges to be worn while on duty on Premises.
- 3.2.3 Employee Conduct. Operator's employees in contact with the public shall perform their duties in an efficient and courteous manner. Operator shall ensure all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times. Failure of an employee to do so shall be

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grounds for the City to demand removal of said employee from duties on the Premises.

3.2.4 Key Personnel. Operator shall designate a manager responsible for administering this Agreement ("Marina Manager"). Operator shall notify Contract Administrator of any change to the manager within five (5) days of the change.

3.2.5 Subcontractors. Operator shall immediately advise City whether subcontractors will be used to perform services. In the event the use of subcontractors is offered, Operator shall provide the same assurance of competence for the subcontractor. The Operator shall also demonstrate ability to manage and supervise work performed by subcontractor.

3.2.5.1 Subcontractor Changes. Operator may change subcontractors as may be necessary from time to time. Operator shall notify City in the event of such change, provide the same assurance of competence for the subcontractors and demonstrate ability to manage and supervise work performed by the subcontractors.

3.2.5.2 Subcontracting by Subcontractors Prohibited. Subcontractors shall not be allowed to further sub-contract with others for work under the Agreement without approval or knowledge of the City.

3.3 Staffing and Hours of Business Operation

3.3.1 Minimum Hours of Business Operation. The Marina shall be in operation seven (7) days a week, including holidays, during hours approved by the City, except on the following national holidays: Thanksgiving Day, Christmas Day and New Year's Day.

3.3.1.1 Sufficient and Competent Staffing. Operator shall provide a sufficient number of trained, experienced and well-qualified staff to operate the on-site Marina office and crane hoists seven (7) days per week, at a minimum of eight (8) hours per day. Business operating hours, as of July 1, 2013, shall be 9:00 a.m. to 5:00 p.m., seven (7) days per week.

3.3.1.2 Staff Availability. The Marina Manager/Dock Masters together with office personnel shall be on site and available during business operating hours. Marina Manager shall generally be onsite Monday through Friday, however, scheduling may vary from time to time.

3.3.1.2.1 Operator shall provide an emergency contact person who is available twenty-four hours a day, seven days a week ("24/7"). Within thirty (30) days of the Effective Date of the Agreement, Operator shall provide the Contract Administrator with the name(s) and telephone numbers(s) of a management person(s) who will be on call at all times for emergencies or other matters related to the operations under this Agreement. Within five (5) days of any subsequent changes, Operator shall provide the City with such information on new on-call management personnel.

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- 3.3.1.3 Crane Hoist Operation Hours. Crane hoist equipment and operations shall be managed in accordance with equipment requirements. Crane hoist personnel shall be available to respond to requests for emergency service 24/7.

3.4 Purchasing

- 3.4.1 Purchasing Policy. All purchases for the Premises, which fall under the Operator's area of responsibility, shall be made in compliance with the City's Purchasing Policy, Procedures and Codes. Purchasing Policy, Procedures and Codes is part of the City of Los Angeles Administrative Code Chapter 1, Division 10 and City Charter Section 370-380 and is available on the Internet at: [www.amlegal.com/nxt/gateway.dll/California/laac/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles_ca_mc](http://www.amlegal.com/nxt/gateway.dll/California/laac/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc)
- 3.4.2 Purchases and Acquisitions. Operator, shall make and execute, or supervise and have control over the making and executing of, all decisions concerning the acquisition of furniture, fixtures and supplies for the Premises, and the purchase, lease or other acquisition of the same, within the scope of the approved Annual Budget.
- 3.4.3 Negotiations. Operator shall have the authority to negotiate such agreements which Operator deems necessary or advisable for the furnishing of utilities, services, concessions and supplies for the maintenance, repair, operation and security of the Premises or incidental to the matters for which Operator is responsible in accordance with the Agreement.

3.5 Parking

- 3.5.1 Parking Inventory. The Premises contain 1,256 parking spaces. Of that amount, 51 are unavailable as of April 2013 while used on an interim basis for trash/waste oil sites, as well as temporary office buildings and restrooms used by the Operator. The parking lots are designated on Exhibit A: Parcel Nos. 1, 5,6,8, and 9, which include designated parking for tenants and guests of the Marina, as well as some spaces for potential use for public parking purposes. Any public parking uses must be approved in advance and in writing by the Executive Director.
- 3.5.2 Parking Permits. Operator shall issue parking permits to Marina tenants who have been allocated space in the parking areas.
- 3.5.3 Parking Restrictions. Parking areas designated as tenant parking are restricted for parking of vehicles associated with Marina operations only, including tenants and guests. Parking areas designated as public parking may not be rented and may be utilized by the City for special events or other purposes. Long term parking of recreational vehicles is strictly prohibited. Parking areas are not allowed for use as repair sites, storage facilities by boaters or visitors or through third party parking agreements.
- 3.5.4 City Use of Parking Areas. On occasion, City may authorize and request use of parking on the Premises to support Port sponsored special events.

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3.5.5 Signage. Operator shall ensure adequate and appropriate parking signage is posted for all lots on the Premises.

3.5.6 Parking Management Program. Operator shall establish a parking management program, including procedures for enforcement of vehicles not permitted to park on Premises.

3.6 Crane Hoist Operations. Within forty-five (45) days of the Effective Date of this Agreement, Operator shall develop rules for crane hoist operations. Operator shall include information regarding all federal, state and local regulations applicable to such operation. Operator shall procure all materials, equipment and supplies needed for crane hoist operations consistent with the approved Annual Budget.

3.6.1 Crane Hoist Training. Operator shall provide crane hoist operations training to staff consistent with all applicable federal, state and local laws, rules and regulations.

3.7 Additional Services. City reserves the right to request additional services from Operator relating to this Agreement when approved by the Parties, if not covered in accordance with the Scope of Work.

3.8 Compliance with Rules and Regulations. Operator shall observe, obey, and comply with rules and regulations adopted by the City and all laws, ordinances, and rules and regulations of other governmental units and agencies having lawful jurisdiction, which may be applicable to the operations under this Agreement. Failure to do so will constitute a breach of this Agreement. Further, Operator shall procure all required permits, licenses and approvals for the operation and performance under this Agreement.

3.9 Consent. Any and all matters requiring consent by the City shall be provided in writing. Advance written approval is specifically required prior to implementing any of the following changes:

- (a) Original signage and graphics on the Premises
- (b) Crane hoist operations
- (c) Landscape plans
- (d) Parking areas
- (e) Any use of the City's name
- (f) Improvements or changes to the Premises
- (g) Hours of business operation
- (h) Marina décor installed or displayed on the Premises

3.10 Commercial Use Prohibited. Commercial activity and operations, as defined in Tariff No. 4, Section 22 and in Section 3.10.2 below, are prohibited under this Agreement. Use of Premises is restricted to recreational boating purposes and vessels with recreational registration only. Operator shall not use, or authorize use of the Premises for any purpose not set forth in the Agreement without prior written approval of the Executive Director or designee.

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3.10.1 Authorization for Commercial Use. Consistent with Tariff No. 4, the City reserves the right to add commercial activity and operations on slips and dock structures. However, in no event shall any approved commercial business compromise the economic viability of other commercial business on slips and dock structures located within reasonable proximity to the Premises.

3.10.2 Breach of Contract Due to Commercial Use. Operator shall be in breach of this Agreement if commercial activity and operations, or any unauthorized use or operation takes place on the Premises. Commercial business includes, but is not limited to:

3.10.2.1 Any operation of a vessel for compensation or hire;

3.10.2.2 Any service performed incidental to the operation of any vessel for which a fee is charged or compensation is received in the form of cash, credit, or any other method of valuable consideration;

3.10.2.3 Any vessel rentals, charters, tours or vessel operation for fishing; and,

3.10.2.4 Any of the above uses or operations, whether or not operator is licensed, registered or in compliance with all laws and regulations, whether vessel is used by owner or any other person, firm or entity for which use the owner, or other person or entity, receives cash, credit, or any other form of valuable consideration.

3.10.3 Notification to Vacate Premises. Upon the Effective Date of the Agreement, Operator shall immediately instruct any existing commercial tenant or operation to vacate the Premises, unless approved, in writing, by the Executive Director. If tenant is approved to remain on the Premises, the tenant must agree to immediately cease all commercial activity within the Premises and comply with Marina Rules and Tariff No. 4.

3.11 Transient Vessels. Operator shall prohibit unauthorized transient vessels and recreational vehicle use on the Premises.

3.12 Special Events. Operator shall prohibit use of the Premises for special events, fairs, swap meets, or filming activities unless the Executive Director, or designee, gives prior written consent. Collection of fees for such events is prohibited, unless written authorization is granted by the Executive Director, or designee. Upon prior approval by Executive Director, Operator shall be reimbursed for directly incurred expenses.

3.12.1 Special Event Paid Parking. Operator shall not enter into any agreements for special event parking.

3.13 Liens. The City shall have a lien upon all personal property of Operator engaged in executing the requirements under this Agreement, to secure the payment to the City of any unpaid money accruing to the City under the terms of this Agreement.

3.14 Vessel Lien Sales. Within sixty (60) days of the Effective Date of the Agreement,

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Operator shall develop policies and procedures to prevent the need for vessel lien sales. In the event a lien sale is unavoidable, after all other feasible actions have been performed, Operator shall execute such sale in accordance with applicable federal, state and local laws, rules and regulations.

3.15 Facility Inventory Audit. The City shall have the right at any time to review and audit inventory and improvements on the Premises.

4. MARINA RULES AND REGULATIONS

4.1 Marina Rules and Regulations. Operator shall comply with Harbor Department's Cabrillo Way Marina Rules, Attachment 2.

4.2 Distribution of Marina Rules. Operator shall distribute Marina Rules to Marina tenants and owners of all vessels berthed in the Marina, or vessels and trailers stored in the dry boat storage area.

4.3 Marina Tenant Acknowledgements. Operator shall ensure best efforts to obtain acknowledgement and understanding of the Marina Rules by every Marina tenant renting space on the Premises.

5. BUDGET

5.1 Annual Budget Preparation. The City shall have input on the development of the annual budget for operation of the Marina and shall approve said budget ("Annual Budget"). Further, City may modify said budget at its discretion. The Annual Budget shall identify revenue projections and estimated expenditures, which are anticipated to be generated on behalf of the City by Operator's performance under this Agreement. Changes to the Annual Budget shall be approved, in advance and in writing, by the City. Operator shall prepare the Annual Budget using the format as shown in Attachment 5, Cabrillo Way Marina Proposed Operating Budget. Operator can offer changes to the budget format, subject to the approval, in writing, by the Contract Administrator.

5.1.1 First Year's Budget. Operator's first year's Annual Budget shall be based on Attachment 5, Cabrillo Way Marina Proposed Operating Budget.

5.1.1.1 Within six (6) months of the Effective Date of the Agreement, Operator shall prepare and submit an updated Annual Budget for the first year of operation and prepare proposed budgets for the remaining years of the initial term of the Agreement. The proposed budgets shall include detailed support documentation which justifies the revenue projections and estimates of expense.

5.1.2 Annual Budget Approval. During the term of the Agreement, Operator shall work with the City to develop and agree upon an Annual Budget for the operation of the Marina pursuant to the Agreement, for approval by the City no later than December 1 of each year. City shall provide Operator with a written confirmation to acknowledge approval of the Annual Budget.

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5.1.3 Annual Budget Information. Operator's annual revenue projections shall identify all sources of estimated gross receipts. Operator's annual estimated expenditures shall include, but are not limited to, the following:

- (a) Personnel Costs. All Marina employees and staff shall be employed by Operator. Operator shall prepare an organizational chart listing all of the full and part-time positions proposed by Operator, their positions with titles, number in each position, job descriptions, proposed pay ranges, and benefit costs for each position. The personnel information shall be incorporated into the Annual Budget for the remaining years of the initial term of the Agreement.
- (b) Marketing and Promotion Costs. Operator shall provide a detailed marketing and promotion annual budget document with detailed marketing and promotion cost information which shall be incorporated into the Annual Budget for the remaining years of the initial term of the Agreement.
- (c) Proposed Minor Improvements, Repair and Maintenance Plan. Operator shall develop a minor improvements, repair and maintenance plan ("Improvement Plan") for the first five (5) years of the term of the Agreement. The proposed Improvement Plan shall provide line-item details and specific written justification to support the proposed activities and associated expenses. The Improvement Plan shall provide for preventive maintenance of the Premises, including, but not limited to, improvements, equipment, facilities, and landscaping, and shall incorporate the requirements of Section 7, Facility Maintenance. The Improvement Plan shall be incorporated into the Annual Budget for the remaining years of the initial term of the Agreement.

5.1.4 Budget and Projections. City acknowledges that any budgets or projections prepared by Operator for City are only estimates of revenues and expenses and may be affected by changes in financial, economic, competitive and other conditions and circumstances beyond Operator's control and that such projections and budgets are not to be construed as a guarantee by Operator of the actual results to be obtained from operations.

5.1.4.1 Operator shall notify the City, in writing, at least monthly, of material deviations from the Approved Budget. A material deviation from the Approved Budget shall be defined as a cumulative fiscal year to date budget variance, in either revenues or expenditures, which exceeds fifteen percent (15%) of the Approved Budget, respectively.

6. MARINA SECURITY

6.1 **Safety and Emergency Plan.** Within sixty (60) days of the Effective Date of the Agreement, Operator shall implement a Safety and Emergency Plan. Operator shall work with the Port Police, the City of Los Angeles Fire Department and other appropriate personnel to develop and implement adequate safety and emergency plans for the Premises ("Safety and Emergency Plan"). The Safety and Emergency Plan shall comply with the United States Public Health Service, United States Coast Guard, California

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Occupational Safety and Health Administration requirements, Tariff, City of Los Angeles fire codes and any other federal, state or local regulations relating to fire protection and safety and health regulations, as applicable.

6.2 City Emergency Contact. The City shall provide to Operator the names and telephone numbers of personnel designated to respond to emergency situations at all times.

6.3 Professional Security Patrol Detail. Operator shall implement and operate a professional security patrol detail to provide protective services and ensure boater and public safety and security of City property. Security patrol shall be on duty, as scheduled, to ensure the safety and protection of the Premises, its assets, boat tenants and employees.

6.4 Security Personnel. Operator shall schedule a sufficient number of security patrol personnel on the Premises to provide for 24/7 coverage. Security shall patrol the Premises when operational staff is not present in order to achieve optimum security coverage at all times.

6.4.1 Additional Security. Operator acknowledges that additional security and patrol may be required for holidays and busy weekends.

6.4.2 Dock Gate Security. Operator shall also manage all dock gates to ensure proper function and will re-set and adjust access code status as necessary to ensure proper security.

6.4.3 Security Monitoring. Operator personnel on duty shall monitor all activities on the Premises and report incidents to the City as appropriate. Vehicles, equipment, tools and supplies shall be secured when not in use.

6.4.4 Communication Devices. Operator shall ensure that security patrol personnel on the Premises are equipped with and carry communication devices such as cell phones or 2-way radios.

6.4.4.1 Operator shall coordinate with Port Police prior to installing any radio or telecommunications equipment to avoid frequency interference with any public safety communications.

6.4.5 Firearms Prohibited. All security personnel, and all other employees, are prohibited from carrying firearms on the Premises.

6.5 Security Phone Number. Operator shall post, on the Premises, an emergency telephone number and assure that a member of Operator's staff is available to answer the phone 24/7.

6.6 Facilities Access. Monitor and maintain access to key and electronically controlled facilities.

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7. FACILITIES MAINTENANCE

7.1 Facilities Maintenance Requirements. Requirements of this section and findings of the initial inspection of the Premises shall be incorporated into the development of the Improvement Plan, Section 5.1.3(c).

7.2 Maintenance of Premises. Operator shall maintain the facilities in good order and in sanitary and safe condition as acceptable to City. Maintenance shall be performed on all buildings, facilities, landscaping, irrigation systems (in coordination with the Harbor Department's Construction and Maintenance Division ("Construction and Maintenance Division")), docks, signage, parking areas, cleaning of storm drains and all other improvements on the Premises.

7.2.1 Initial Inspection of Premises. Within thirty (30) days of the Effective Date of the Agreement and in conjunction with Section 5.1.3, Improvement Plan, Operator, accompanied by Contract Administrator / Construction and Maintenance Division, shall complete an initial examination of the Premises and develop an annual maintenance schedule to ensure the safety, quality and integrity of the Premises, and for prevention of deterioration of facilities and equipment. Operator shall submit an inspection report to the Construction and Maintenance Division ("Construction and Maintenance Division"), with a copy to the Contract Administrator.

7.2.2 Mandatory Facilities Maintenance. Maintenance work shall be performed using best management practices. Mandatory maintenance is applicable, but not limited to, the facilities and equipment set forth below.

- (a) All docks and gangways
- (b) Interior and exterior of all Harbor-owned buildings and improvements
- (c) Crane hoists
- (d) Pump-out stations and related sewage lines
- (e) Used-oil recycling facilities
- (f) Boater and public restrooms
- (g) Laundry facilities and janitorial closets
- (h) Associated utility service panels
- (i) Storage facilities
- (j) Gates and locks, including electronic key access control systems
- (k) Irrigation systems (in coordination with the Construction and Maintenance Division)
- (l) Lighting systems
- (m) Parking areas
- (n) Promenade walkways
- (o) Bike paths
- (p) Dry boat storage area
- (q) Storm drain filtration system
- (r) Signage throughout the Premises

7.2.3 Operator shall ensure that the building façades, doors, walls, roofs and eaves, and docks, fingers and gangways, are free and clear of appurtenances, permanent

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fixtures and all other improvements, modifications, attachments and alterations that may potentially void warranties or cause safety hazards.

7.3 Routine Day-to-Day Maintenance.

7.3.1 Minor Improvements. In connection with performance of routine day-to-day maintenance, repair and landscaping, Operator shall negotiate and supervise the installation of minor capital improvements related to the Premises which Operator, in its reasonable discretion, deems necessary or appropriate, provided however, that Operator shall obtain the prior written approval of the City for all expenditures in excess of five thousand dollars (\$5,000) for any one item (except monthly or recurring operating charges and emergency repairs if in the opinion of Operator such expenditures are necessary to protect the Premises from damage or to maintain services to Marina tenants as called for in their agreements).

7.3.2 Mechanic's Lien. Operator shall not contract for any products or services that might allow any mechanic's liens or lien of any kind to be placed on the Premises.

7.4 Facilities and Equipment Damage. Operator shall provide immediate notification to Port Police and the Contract Administrator to report any damage to the Premises and/or equipment. Operator shall follow up with a written report to the Contract Administrator, with a copy to the Construction and Maintenance Division, summarizing facility and equipment damages.

7.4.1 Irrigation Breaks. Operator shall provide immediate notification to City of any irrigation breaks by contacting the Construction and Maintenance Division at (310) 732-3550. This number is operational 24/7, including all evenings, weekends, and holidays.

7.5 Pump-Out and Waste Oil Operations. Operator shall maintain and oversee operation including, proper disposal of all waste from sewer pump-out operations of the fifty-three (53) in-slip hydrant and hook-ups located on the gangways of the larger slips throughout the Marina, of which six (6) are sewer vacuum pump-out systems. Operator shall also provide for pump-out accessibility to Marina tenants and the boating public during business operating hours. Pump-out and waste oil operations shall be performed in accordance with Tariff.

7.6 Graffiti Removal. Operator shall remove any and all graffiti immediately from any part of the Premises.

7.7 Pest Control. Operator shall implement and maintain a continuous pest control program applying humane prevention of infestation of pests, animals and nuisances (Pest Control Program) with a minimum monthly inspection. The Pest Control Program shall comply with all federal, state, local or county statutes, ordinances and regulations. Pests shall include, but are not limited to, the following:

- (a) Insects and vermin
- (b) Pigeons

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- (c) Seagulls
- (d) Raccoons
- (e) Dogs
- (f) Feral cats

7.7.1 Operator shall utilize a licensed pest control operator to control rodents in a humane and professional manner.

7.8 Custodial and Janitorial Services. Operator shall provide custodial services maintaining the Premises in a safe and sanitary condition at all times.

7.8.1 Schedule of Services. At minimum, Operator shall perform services in accordance with the provisions and schedule outlined below.

7.8.1.1 Daily.

- (a) Check trash receptacles throughout the Premises and empty as necessary.
- (b) Clean all restrooms, including floors, walls, windows, bathroom stalls, urinals, toilets, mirrors, and counter tops and sinks.
- (c) Clean all showers and laundry rooms; re-stock restroom supplies; empty trash receptacles.
- (d) Pick up litter.
- (e) Patrol all walkways, gangways, driveways and grounds for debris and hazards.
- (f) Walk the docks to make sure no vessel is listing or in danger of capsizing or sinking.
- (g) Sweep, clean or wash any areas as required to avoid accumulation of all debris, including animal feces, dirt, sand and leaves.

7.8.1.2 Weekly.

- (a) Perform preventive maintenance tasks on docks, equipment and facilities to ensure minimal failure and proper sufficiency.

7.8.1.3 Semi Monthly (every two weeks).

- (a) Check dock lights and replace broken or expired lamps and photocells as necessary.
- (b) Inspect the surface of walkways, gangways and dock floats for hazardous conditions such as trip hazards, holes or missing or broken sections of concrete, missing or deteriorated non-skid coatings, float instability or listing, exposed nails, screws or bolts. Notify the

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Contract Administrator of any defects or irregularities.

- (c) Walk docks to inspect for any indications of structural failure including deteriorated gusset boards, broken blocks or guides, broken float connections, or insufficient freeboard. Notify the Contract Administrator of any defects or irregularities.
- (d) Inspect fire hose enclosures for broken glass or door latch failure. Verify fire extinguishers are in proper locations and fully charged. Ensure fire hoses are properly stowed.
- (e) Inspect fire hoses for leaking valves.

7.8.1.4 Monthly.

- (a) Lubricate locks and hinges on all gates and doors to prevent corrosion.

7.8.1.5 Annually.

- (a) Service all HVAC units by qualified certified technicians to ensure proper operation.
- (b) Recharge and re-certify all portable fire extinguishers.
- (c) Perform bolt adjustments on all fingers and docks to maintain integrity.

7.8.1.6 As-Needed.

- (a) Operator acknowledges that the Marina is new and that the Operator shall not attempt modifications or repairs to any improvements whatsoever covered by warranty but shall immediately notify the Contract Administrator and Construction and Maintenance Division of any defects, failures or malfunctions.
- (b) Paint interior and exterior of facilities as needed or as determined by the City.
- (c) Operator shall perform preventative maintenance of Marina infrastructure (gates, locks, key systems, floats, rollers, gangways, etc.) in accordance with manufacturer recommendations or, industry standards if manufacturer does not provide care or maintenance guidelines.
- (d) Wash trash receptacles as needed.
- (e) Sweep parking areas as needed.

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- (f) Sweep dry boat storage areas as needed.

7.9 Landscape and Hardscape Area Services. Operator shall furnish all labor, tools, and equipment needed to provide full service landscape maintenance services to the areas covered by this Agreement. Operator shall provide personnel fully trained in all phases of landscape irrigation system operations, maintenance, equipment adjustments, repair, including copper, galvanized, and plastic piping and all brands of components, and sprinkler heads. Within thirty (30) days of the Effective Date of the Agreement, Operator shall designate a landscape services supervisor ("Landscape Supervisor") for communication and coordination purposes and provide the Contract Administrator with contact information. Operator shall provide updates within five (5) days of any changes to contact information.

7.9.1 Consistency and Enforcement of Scheduling. Operator shall commit to and enforce a consistent schedule of landscape services.

7.9.2 Monthly Inspections. Operator shall participate in monthly inspections of all maintained areas with landscaping personnel to ensure proper care is being provided.

7.9.3 Landscape Service Provisions. Operator shall provide landscape maintenance services in accordance with the provisions and schedule outlined below.

7.9.3.1 Maintenance Parcels.

- (a) Collect and remove all debris from the maintenance parcels, including litter, leaves, down branches, etc., and take away from site at the conclusion of the day's work or the end of the day, whichever occurs first.
- (b) Operate blowers no earlier than 9:00 a.m. and no later than 5:00 p.m.

7.9.3.2 Turf – Mow and Edge

- (a) Mow all turf areas once each week and on the same day throughout the contract period.
- (b) Reschedule any mow service to the first acceptable day when missed due to inclement weather or ground conditions from such weather.
- (c) Ensure removal and proper disposal of all debris including, but not limited to, paper and glass, from surfaces to be groomed prior to mowing.
- (d) Adjust cutting heights seasonally.
- (e) Neatly and uniformly edge all turf grass borders concurrent with every mowing.

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- (f) Perform edging using mechanical methods except where physically impossible or impractical.

7.9.3.3 Groundcover and Flowerbeds.

- (a) Maintain and cultivate groundcover and flowers to promote healthy growth.
- (b) Trim groundcover and flowers to restrict growth onto hardscape, as well as tree, shrub and turf areas.
- (c) Maintain full coverage of groundcover.
- (d) Advise the Landscape Supervisor of bare areas for approval of purchase and placement of additional plants to achieve full coverage.
- (e) Maintain flowerbeds and cultivate to promote healthy growth. Advise Landscape Supervisor of problem areas for approval to purchase and placement of additional flowers in order to ensure continuous acceptable appearance.
- (f) Rid groundcover and flowerbeds of all weeds and volunteer growth, grasses, leaves, litter and other debris to ensure continuous acceptable appearance.

7.9.3.4 Shrubs.

- (a) Maintain shrubs to promote their healthy growth.
- (b) Trim shrubs to restrict growth from hardscape, groundcover, turf and other shrub areas.
- (c) Advise Landscape Supervisor of areas for approval of purchase and placement of necessary additional shrubs to ensure continuous acceptable appearance.
- (d) Rid shrubs of all weeds, grasses, leaves and other debris to ensure a continuous acceptable appearance.

7.9.3.5 Hardscape Areas.

- (a) Remove and properly dispose of all accumulated debris, including plant materials and litter, and the same from promenades, streets, roadways, sidewalks, steps, parking lots and parking lot corners immediately adjacent to the maintenance parcels. Such removal and disposal shall be an integral part of the area service.

EXHIBIT "B"

- (b) Empty all refuse containers and properly dispose of all contents. Such empty and disposal activity shall be an integral part of each visit.
- (c) Remove all weeds or other growth from cracks or breaks in street, roadway, sidewalk, and steps.
- (d) Provide immediate notification to Operator upon observation of the presence of excessive refuse or evidence of dumping.

7.9.3.6 Trees.

- (a) Maintain trees so as to promote their healthy growth.
- (b) Edge and weed tree beds to maintain a continuous clean and attended appearance.
- (c) Prune trees to twelve feet (12 ft.) as necessary to remove dead and dying branches and to remove hazards and obstacles extended over streets, sidewalks, turf, groundcover and shrubs.
- (d) Advise Operator of trees needing maintenance beyond the scope of this Agreement.

7.9.3.7 Weed Control.

- (a) Utilize an ongoing program of physical effort, and chemical application as necessary, to eliminate weeds, pests, fungus and insects.
- (b) Use of all chemicals shall be approved by the Construction and Maintenance Division.
- (c) Operator shall enforce observance of all safety requirements including, but not limited to, use of personal protective equipment on the part of those applying chemicals.

7.9.3.8 Fertilization.

- (a) Fertilize all non-turf areas with 12-12-12 fertilizer at the rate of one pound actual nitrogen per one thousand square feet (1,000 sf) then re-fertilize at the same rate every ninety (90) days thereafter.
- (b) Perform deep root feedings to all new trees and large shrubs then re-feed every six (6) months thereafter.
- (c) Minimize moisture in fertilization areas prior to broadcast.

EXHIBIT "B"

- (d) Thoroughly irrigate fertilized areas immediately following fertilization.

7.9.3.9 Irrigation and Irrigation System.

- (a) Perform all irrigation in coordination with the Construction and Maintenance Division and in accordance with effective City ordinances. Effective City ordinances are available on the Internet at www.Ladwp.com/ladwp/cms/ladwp001257.jsp.
- (b) Irrigate all areas as necessary to maintain adequate growth and continuous acceptable appearance.
- (c) Perform irrigation between 1:00 a.m. and 4:45 a.m. To the extent it can be performed through automatic control, irrigation shall be scheduled to supply quantities and frequencies consistent with seasonal requirements of the plant materials in the landscape.
- (d) The City shall adjust automatic programs as dictated by the weather. If an automatic control system is not present, watering must be performed manually. Operator shall observe, communicate, and coordinate with the Construction and Maintenance Division for any controller adjustments necessary for prevention of under or over irrigating, and sprinkler head adjustments to prevent excessive runoff and erosion, and watering of hardscape.
- (e) Provide personnel fully trained in all phases of landscape irrigation system operations, maintenance, equipment adjustments, repair, including copper, galvanized, and plastic piping and all brands of components, and sprinkler heads.
- (f) From time to time, City may request Operator to assist in maintenance irrigation care as part of routine landscape upkeep to adjust all sprinkler heads and risers, clean and flush heads, lines, emitters, screens and to remove obstructions as necessary to provide adequate coverage to all landscaped areas.
- (g) In coordination with the Construction and Maintenance Division, test all irrigation systems the first (1st) and third (3rd) week of each month and immediately report any and all irrigation system problems not correctable as described in the paragraph above. City shall provide Operator with the computer password necessary for performance of manual testing of irrigation system.
- (h) Test any irrigation system when damage is suspected, observed or reported by others, and immediately report information to the Construction and Maintenance Division.

EXHIBIT "B"

- (i) The City retains the right to determine how and by whom irrigation system repairs will be made.
- (j) Repairs to landscape or to irrigation systems at the sites may be authorized by the City. Operator, however, shall provide City with a written notice with description of the work to be performed and an estimate of the cost, including a detail of labor and material costs. The City shall approve such estimate in writing thus authorizing Operator to proceed with such repair.

8. INSPECTIONS

8.1 City Inspections. Operator shall provide personnel to accompany Contract Administrator on periodic inspections of the Premises to determine Operator's compliance with the Agreement.

8.1.1 Deficiencies. Within thirty (30) days of written notice by the City, Operator shall provide written confirmation to the City of all efforts and/or corrections made with respect to all deficiencies documented during City staff inspections of the Premises. If corrections have not been made and more time is required, Operator and City shall agree on an extension to accomplish such corrections.

8.2 Other Agency Inspections. Operator shall provide appropriate responses in compliance with any federal, state and local agency inspections.

8.3 Dock Box Inspections. Operator shall conduct random dock box inspections to ensure no hazardous, or illegal materials, are stored inside.

8.4 Facility and Equipment Inspections. Operator shall perform scheduled monthly inspections and accurately document the condition of the facilities and equipment on the Premises. Inspections shall include a property control process to safeguard and account for City property. Operator shall maintain inspection records on file in the Marina office during the entire term of the Agreement.

8.5 Fire Safety Inspection. Operator shall coordinate and cooperate with the City and City's Fire Department for annual inspections of fire safety and equipment, or more frequently as deemed necessary.

8.6 Liveaboard Inspections. City authorized staff shall perform inspections of liveaboard vessels consistent with Tariff Item No. 2230. Operator is responsible for ensuring inspections are performed. Such inspections shall be performed on vessels of new and existing Marina tenants with liveaboard status.

8.7 Parking Area Inspections. Operator shall monitor and inspect all vehicles parked on Premises to verify compliance with all requirements set forth in parking permits.

8.8 Roof Inspections. The City shall perform an annual inspection of all facility roofs.

8.9 Vessel Inspections. Operator shall inspect vessels to determine seaworthiness, as

EXHIBIT "B"

defined in Tariff Item No. 2215, and for verification of compliance with navigational requirements pursuant to the Inland Navigational Rule Act of 1980. Operator shall inspect vessels when a rental application is filed or upon entry on the Premises, and on-going vessel inspections shall be performed in accordance with this Section.

- 8.9.1 In-Slip Vessels. Operator shall conduct vessel inspections consistent with Tariff. Inspection shall include all vessels berthed in the Marina to verify among other observations, conformance with all requirements set forth in the agreements for slip assignment, current Department of Motor Vehicle registration and United States Coast Guard documentation, including proper vessel display of such registration and documentation, as applicable.

Vessel inspections shall also provide for condition of vessels identifying any vessel that is not in compliance with environmental requirements, including vessels that may be listing, capsize or sink.

- 8.9.2 Dry Boat Storage Vessels and Trailers. Operator shall conduct inspections of stored vessels and trailers consistent with the Tariff. Inspection shall include all items located in the dry boat storage area to verify among other observations, conformance with all requirements set forth in the agreements for dry boat storage stall assignment, current Department of Motor Vehicle registration and United States Coast Guard documentation, including proper vessel and trailer displays of such registration and documentation, as applicable.

9. ENVIRONMENTAL

- 9.1 **Environmental Operational Requirements**. Operator shall comply with all applicable federal, state, local and City environmental rules, regulations, policies, and requirements.

- 9.2 **Clean Marina**. Operator shall implement Clean Marina best management practices, as detailed in the Clean Marinas California Program, incorporating any City clean marina requirements. The Clean Marinas California Program is accessible in the City's Clean Marina Program Guidebook which is available on the Internet at: www.portoflosangeles.org/pdf/Clean_Marina_Guidebook.pdf. Operator shall strive to obtain Clean Marina certification no later than six (6) months after the Effective Date of the Agreement, or earlier if feasible.

- 9.2.1 Submittal of Certification. Immediately upon receipt of certification, Operator shall mail a copy to the Harbor Department's Environmental Management Division ("Environmental Management Division") and the Contract Administrator, which will remain on file.

- 9.3 **Environmental Policy**. Operator shall comply with Harbor Department's Cabrillo Way Marina Rules, Attachment 2, which includes Environmental Procedures for In-Water Boat Maintenance. Operator shall communicate environmental policy information to

EXHIBIT "B"

Marina customers, and affix Attachment 2 to every rental agreement, to be incorporated thereof.

9.4 Marina Tenant Environmental Knowledge. Operator shall ensure best efforts in oversight of Marina tenant compliance with said laws and regulations and shall alert and report violators to proper authorities, including an immediate written report to Environmental Management Division. Operator shall mail report to the Environmental Management Division, with a copy to Contract Administrator.

9.5 Illegal Discharge. Ensure best efforts to prevent illegal or illicit discharge from occurring from vessels, in accordance with all applicable Tariffs and regulations.

9.6 Hazardous Spill. Operator shall act in accordance to Tariff in response to hazardous spills. Operator shall also immediately notify Port Police Haz-Mat Investigations and the City of Los Angeles Fire Department of any hazardous spills.

9.7 Waste Material Disposal. Ensure that the waste oil collection center for used oil, used oil filters, and used bilge pad collection is maintained and disposal of waste materials is handled properly. The City encourages coordination with outside agencies to implement a grant-funded bilge pad exchange program. Grants may be available through the City of Los Angeles, Department of Public Works, Bureau of Sanitation, or the Santa Monica Bay Restoration Foundation or others.

9.8 Recycling Program. Within sixty (60) days of the Effective Date of the Agreement, Operator shall implement and maintain a recycling program for paper, plastics, glass, household batteries, zinc and other metal anodes, used oil, and any other recyclable materials ("Recycling Program"). Operator shall coordinate with the Harbor Department's Recycling Coordinator to confirm said Recycling Program has been accomplished as described herein.

9.9 Grooming. In coordination with the Construction and Maintenance Division, groom, clean, and maintain harbor waters to keep free of debris and obstructions. Ensure proper disposal of all debris and obstructions from harbor waters.

10. REPORTS

10.1 Reporting Format and Due Dates. Reports shall be transmitted in an electronic format, whenever possible, and via mail using the address(es) provided in Section 13.

10.2 Vessel Engine Report. In coordination with the Environmental Management Division, Operator shall prepare an annual report comprised of collected engine information, including type and age, on all vessels which are berthed at the Marina ("Vessel Engine Report"). The Vessel Engine Report shall be developed in a database format using Excel, Access, or another software program acceptable to the City. Operator shall transmit the Vessel Engine Report to the Environmental Management Division and the Contract Administrator.

10.3 Marina Rental Rates Report. Operator shall conduct an annual survey and prepare a list of the rates charged at adjacent marinas ("Marina Rental Rates Report"). The

EXHIBIT "B"

Marina Rental Rates Report shall be due December 1 of each calendar year and shall be transmitted to the Contract Administrator.

10.4 Marine Sanitation Devices Inventory Report. Operator shall perform an annual inventory of marine sanitation devices ("MSD") and prepare a report documenting the types of devices ("Marine Sanitation Devices Inventory Report"). Operator shall perform the initial inventory on all new Marina slip tenants and dry boat storage tenants with permanent occupancy status. The Marine Sanitation Devices Inventory Report shall be transmitted to the Environmental Management Division and the Contract Administrator.

10.5 Parking Permits Report. Operator shall maintain, on the Premises, an updated report which lists all parking permits assigned to Marina tenants ("Parking Permits Report"). The Parking Permits Report shall include, but is not limited to, the information set forth below.

- (a) Marina tenant's name
- (b) Parking permit number
- (c) Marina tenant's slip space assignment
- (d) Marina tenant's dry boat storage stall number
- (e) Parking permit expiration date

11. MARKETING, ADVERTISING AND PROMOTION

11.1 Marketing Plan. Within six (6) months of the Effective Date of the Agreement, Operator shall develop a Marketing Plan, identifying activities and strategies to achieve a successful Marina operation. The Marketing Plan shall focus on attracting new customers outside the Los Angeles harbor marinas. The Marketing Plan shall include policies and procedures which Operator deems necessary or advisable for directing marketing subject to the Annual Budget proposal.

11.1.1 Marketing Plan Implementation. The Marketing Plan shall include an implementation schedule identifying items to be completed within one (1) year of the Effective Date of the Agreement.

11.1.2 Signage and Advertising Materials. All advertising of the Marina including signs may be carried under the Operator's name and the name of the City. Any marketing or promotion documents prepared by Operator using the City or Port of Los Angeles logo, including advertisements and brochures, shall be approved by the Port of Los Angeles Public Relations Director prior to their implementation, publication, distribution or dissemination.

11.1.3 Promotion of Los Angeles Harbor Facilities. Operator shall in good faith and with all reasonable diligence use its best efforts, by suitable advertising and other means, to promote use of the Marina as authorized by this Agreement and cultivate access to the waterfront and harbor areas.

11.1.4 Publications. Operator shall include the Marina in newsletters or periodicals which it publishes or distributes.

EXHIBIT "B"

12. BOOKS AND RECORDS

12.1 On-Site Records. Maintain on-site, all books, accounts, and other records related to the Marina operations, including but not limited to the records set forth below. Upon the expiration of this Agreement, Operator shall deliver all records, documents, accounts, ledgers, waiting lists, reports, electronic files, agreements and other work product produced pursuant to this Agreement to City in an organized, usable form.

- (a) Slip tenants
- (b) Boat and trailer storage tenants
- (c) Launch and retrieval operations
- (d) Occupancy and identification of liveaboards
- (e) Security activities, including electronic key card access information
- (f) Financial, management and operational issues
- (g) Maintenance records
- (h) Guest slips and interim rentals
- (i) Wait lists for slips and dry boat storage
- (j) Transfer request lists for slips and dry boat storage
- (k) Collection of rents, deposits and all other related fees

12.2 Regulatory Records. Operator shall maintain copies of, or have prompt access to, federal, state and local regulatory requirements applicable to Marina and boating activities and ensure compliance of such regulations.

13. MAILING ADDRESSES. Transmittal of information requested by mail shall be mailed to the designated address provided in this Section, unless City provides a change of address, in writing, to Operator.

Construction and Maintenance Division
Harbor Department, City of Los Angeles
P.O. Box 786
Wilmington, CA 90748-0786
Attn: Director of Construction and Maintenance

Environmental Management Division
Harbor Department, City of Los Angeles
P.O. Box 151
San Pedro, CA 90733-0151
Attn: Director of Environmental Management

The following mailing address shall be used for the Real Estate Division/Contract Administrator:

Real Estate Division
Harbor Department, City of Los Angeles
P.O. Box 151
San Pedro, CA 90733-0151
Attn: Director of Real Estate Division

PORT OF LOS ANGELES
P.O. BOX 514300
SAN PEDRO, CA 90051-4300
MONTHLY GROSS RECEIPTS REMITTANCE REPORT
NET OPERATING INCOME DUE

CUSTOMER NO.:

PORT OF LOS ANGELES USE ONLY

CUSTOMER NAME:

ACCOUNT NO. _____

INVOICE NO. _____

Transmitted herewith, executed in duplicate, is our monthly report of gross receipts from the use and operation of Cabrillo Way Marina authorized under Agreement No. _____. Enclosed is the check for the amount due and payable to the City of Los Angeles Harbor Department, per this report.

Business Tax Registration Certificate No. _____

Gross Receipts Report for the month of: _____, 20_

RECEIPTS

- | | |
|---|----------|
| 1. Gross receipts received or earned from slip rentals. | \$ _____ |
| 2. Gross receipts received or earned from dry boat storage. | _____ |
| 3. Gross receipts received or earned from crane hoist services. | _____ |
| 4. Gross income from boat owner facilities and all other machine or equipment operations. | _____ |
| 5. Gross income from electricity fee collections, boater utility use and all other utilities. | _____ |
| 6. Gross receipts received from all security deposits, e.g., keys, slips, dry storage, etc. | _____ |
| 7. Gross retail sales. | _____ |
| 8. Miscellaneous gross receipts. | _____ |

TOTAL GROSS RECEIPTS \$ _____

LESS TOTAL MONTHLY EXPENSES \$ _____

NET OPERATING INCOME DUE PORT OF LOS ANGELES \$ _____

(Remit MONTHLY payment with Operating Expense Report, including line-item detail, and most recent bank statement.)

I certify under penalty of perjury that the above statement of gross receipts, expenses and net operating income is just and correct according to the terms of Agreement No. _____. I further certify that I have complied with the provisions of the City's Living Wage Ordinance.

Westrec Marina Management, Inc.

Date: _____

Note: Please forward two (2) copies of this report, with detailed Operating Expense Report and most recent bank statement, before the 30th day after the close of each calendar month, with check payable to the City of Los Angeles Harbor Department for the amount of Net Operating Income DUE.

EXHIBIT C-1



Westrec Marinas

WESTREC MARINAS
CABRILLO WAY (POLA) #9582
Statement of Operations

For the monthly period from _____ to _____

	Current period					Year to Date					
	ACTUAL	RATIO	LAST YEAR	RATIO	VARIANCE	%	ACTUAL	RATIO	LAST YEAR	VARIANCE	%
REVENUE											
OPERATING REVENUE											
Wet Slip Rental	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Guest Slips	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Dry Storage	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Laundry Machines	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Vending Machines (if any) Net	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Liveaboards	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Storage Lockers	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Electric	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Interest Income	-----	---	-----	---	-----	---	-----	---	-----	-----	---
TOTAL	-----	---	-----	---	-----	---	-----	---	-----	-----	---
MISCELLANEOUS											
Tenant Refunds	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Miscellaneous Revenues	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Collection Income	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Interest Income	-----	---	-----	---	-----	---	-----	---	-----	-----	---
Electric Usage Collections	-----	---	-----	---	-----	---	-----	---	-----	-----	---
TOTAL	-----	---	-----	---	-----	---	-----	---	-----	-----	---
TOTAL REVENUE											



Westree Marinas

WESTREC MARINAS
CABRILLO WAY (POLA) #9582
Statement of Operations

For the monthly period from _____ to _____
Year to Date

	Current period				Year to Date			
	ACTUAL	RATIO	LAST YEAR	VARIANCE	ACTUAL	RATIO	LAST YEAR	%
EXPENSES								
GENERAL & ADMINISTRATION								
Management Fee	-----	--	-----	-----	-----	--	-----	--
Marina Staffing (Labor or Salary & Benefits)	-----	--	-----	-----	-----	--	-----	--
Marketing, Events and Promotions	-----	--	-----	-----	-----	--	-----	--
Accounting Services	-----	--	-----	-----	-----	--	-----	--
Collection Services	-----	--	-----	-----	-----	--	-----	--
Insurance	-----	--	-----	-----	-----	--	-----	--
Permits/Licensing Fee	-----	--	-----	-----	-----	--	-----	--
Sub-Contracting Services	-----	--	-----	-----	-----	--	-----	--
Tax	-----	--	-----	-----	-----	--	-----	--
Office Equipment & Repair	-----	--	-----	-----	-----	--	-----	--
Office Supplies	-----	--	-----	-----	-----	--	-----	--
Telecommunication (includes telephone, mobile phone and radio)	-----	--	-----	-----	-----	--	-----	--
TOTAL	-----	--	-----	-----	-----	--	-----	--
OPERATIONS								
Security	-----	--	-----	-----	-----	--	-----	--
Gardening/Landscaping	-----	--	-----	-----	-----	--	-----	--
Janitorial/Custodial	-----	--	-----	-----	-----	--	-----	--
Utilities	-----	--	-----	-----	-----	--	-----	--
Refuse Disposal	-----	--	-----	-----	-----	--	-----	--
Start Up Costs/Equipment	-----	--	-----	-----	-----	--	-----	--
TOTAL	-----	--	-----	-----	-----	--	-----	--



Westrec Marinas

WESTREC MARINAS
CABRILLO WAY (POLA) #9582

Statement of Operations

For the monthly period from _____ to _____

	Current period						Year to Date					
	ACTUAL	RATIO	LAST YEAR	RATIO	VARIANCE	%	ACTUAL	RATIO	LAST YEAR	RATIO	VARIANCE	%
MAINTENANCE AND REPAIR												
Equipment												
Supplies												
Lighting												
Filters												
Docks												
Grounds												
Irrigation												
Vehicles/Boats												
TOTAL												
TOTAL EXPENSES												

Net Operating Income

MONTHLY SUBCONSULTANT MONITORING REPORT

Instructions: Please indicate the SBE/MBE/WBE/OBE/DBE participation levels achieved for the month of _____ covered by the referenced contract number.

Contract No.	Division	Contract Administrator
Contractor	*Group	Contract Title/Project
Contract Amount	Start Date	End Date

Total Amount Invoiced to Date _____

SBE Mandated Participation Percentage _____ SBE _____ VSBE _____

Proposed Subcontractor Percentage _____ MBE _____ WBE _____ OBE _____ DBE _____

PROPOSED					ACTUALS		
Name of Subcontractor	Type of Work Performed	Group SBE/VSBE/MBE/WBE/OBE DBE/DBE	Original Proposed Amount	Original Proposed Percentage	Amount Paid to Date	Amount Paid to Date Percentage	Contract Amount Percentage
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

Directions:

Original Proposed Percentage: Original Proposed Percentage of Total Contract Amount
 Amount Paid to Date Percentage: Percentage of Total Amount Invoiced to Date
 Contract Amount Percentage: Percentage Paid to Date of Total Contract Amount

* Group = (SBE/VSBE/MBE/WBE/OBE/DBE/DBE)

Rev 09/21/11

EXHIBIT D

Business Tax Registration Certificate (BTRC) Number

The City of Los Angeles, Office of Finance requires all firms that engage in any business activity within the City of Los Angeles to pay City business taxes. Each firm or individual (other than a municipal employee) is required to obtain the necessary Business Tax Registration Certification (BTRC) and pay business tax. (Los Angeles Municipal code Section 21.09 et seq.)

All firms and individuals that do business with the City of Los Angeles will be required to provide a BTRC number or an exemption number as proof of compliance with Los Angeles City business tax requirements in order to receive payment for goods or services. Beginning October 14, 1987, payments for goods or services will be withheld unless proof of tax compliance is provided to the City.

The Tax and Permit Division of Los Angeles Office of Finance, has the sole authority to determine whether a firm is covered by business tax requirements. Those firms not required to pay will be given an exemption number.

If you do NOT have a BTRC number contact the Tax and Permit Division at the nearest office listed below, or log on to www.lacity.org/finance, to download the business tax registration application.

MAIN OFFICE

LA City Hall	201 N. Main Street, Rm. 101	(213) 626-9271
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BRANCH OFFICES

Van Nuys Civic Center	14401 Erwin Mall	(818) 756-8531
W. LA City Hall	1828 Sawtelle Blvd.	(310) 575-8888
Hollywood Office	6501 Fountain Ave.	(213) 485-3935
San Pedro City Hall	638 S. Beacon St., Rm. 303	(310) 732-4537
Westchester Municipal Bldg.	7166 Manchester, Rm. 9	(213) 473-6750
Watts City Hall	10221 Compton Ave., Rm. 202	(213) 473-5109

AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such contract:

- A. During the performance of City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any contractor to comply with the Affirmative Action Program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the

awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

- F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.
- H. Notwithstanding any other provisions of a City contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.
- J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. The Contractor shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to

approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.

1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 2. A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;

6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
- P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.
- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

SMALL/VERY SMALL BUSINESS ENTERPRISE PROGRAM

The City of Los Angeles Harbor Department is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at the Harbor Department in a manner that reflects the diversity of the City of Los Angeles. The Harbor Department's Small Business Enterprise (SBE) Program was created to provide additional opportunities for small businesses to participate in professional service and construction contracts. An overall Department goal of 25% SBE participation, including 5% Very Small Business Enterprise (VSBE) participation, has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work.

It is the policy of the Harbor Department to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, VSBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBES). The SBE Program allows the Harbor Department to target small business participation, including MBEs, WBEs, and DVBES, more effectively. It is the intent of the Harbor Department to make it easier for small businesses to participate in contracts by providing education and assistance on how to do business with the City, and ensuring that payments to small businesses are processed in a timely manner. **In order to ensure the highest participation of SBE/VSBE/MBE/WBE/DVBES, all proposers shall utilize the City's contracts management and opportunities database, the Los Angeles Business Assistance Virtual Network (LABAVN), at <http://www.labavn.org>, to outreach to potential subconsultants.**

The Harbor Department defines a SBE as an independently owned and operated business that is not dominant in its field and meets criteria set forth by the Small Business Administration in Title 13, Code of Federal Regulations, Part 121. Go to www.sba.gov for more information. The Harbor Department defines a VSBE based on the State of California's Micro-business definition which is 1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees.

The SBE Program is a results-oriented program, requiring consultants who receive contracts from the Harbor Department to perform outreach and utilize certified small businesses. **Based on the work to be performed, it has been determined that the percentage of small business participation will be 25%, including 0% VSBE participation.** The North American Industry Classification System (NAICS) Code for the scope of services is _____. This NAICS Code is the industry code that corresponds to at least 51% of the scope of services and will be used to determine the size standard for SBE participation of the Prime Consultant. The maximum SBE size standard for this NAICS Code is \$_____ million.

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs. The Consultant shall not substitute an SBE firm without obtaining prior approval of the City. A request for substitution must be based upon demonstrated good cause. If substitution is permitted, Consultant shall endeavor to make an in-kind substitution for the substituted SBE.

In the event of Consultant's noncompliance during the performance of the Agreement, Consultant shall be considered in material breach of contract. In addition to any other remedy available to City under this Agreement or by operation of law, the City may withhold invoice payments to Consultant until noncompliance is corrected, and assess the costs of City's audit of books and records of Consultant and its subconsultants. In the event the Consultant falsifies or misrepresents information contained in any form or other willful noncompliance as determined by City, City may disqualify the Consultant from participation in City contracts for a period of up to five (5) years.

Consultant shall complete, sign, notarize (where applicable) and submit as part of the executed agreement the attached Affidavit and Consultant Description Form. The Consultant Description Form, when signed, will signify the Consultant's intent to comply with the SBE requirement. Prior to contract award, the Harbor Department will verify the status of all SBEs. In addition, prior to being awarded a contract with the Harbor Department, all consultants and subconsultants must be registered on the LABAVN.

EXHIBIT I

1 of 5

AFFIDAVIT OF COMPANY STATUS

"The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on the **attached Consultant Description Form** is true and correct and include all material information necessary to identify and explain the operations of

Name of Firm

as well as the ownership and location thereof. Further, the undersigned agrees to provide complete and accurate information regarding ownership in the named firm, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents in association with this agreement."

(1) **Small/Very Small Business Enterprise Program:** Please indicate the ownership of your company. Please check all that apply. At least one box must be checked:

☐ SBE ☐ VSBE ☐ MBE ☐ WBE ☐ DVBE ☐ OBE

- A Small Business Enterprise (SBE) is an independently owned and operated business that is not dominant in its field and meets criteria set forth by the Small Business Administration in Title 13, Code of Federal Regulations, Part 121.
- A Very Small Business Enterprise (VSBE) is 1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees.
- A Minority Business Enterprise (MBE) is defined as a business in which a minority owns and controls at least 51% of the business. A Woman Business (WBE) is defined as a business in which a woman owns and controls at least 51% of the business. For the purpose of this project, a minority includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, The Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- A Disabled Veteran Business Enterprise (DVBE) is defined as a business in which a disabled veteran owns at least 51% of the business, and the daily business operations are managed and controlled by one or more disabled veterans.
- An OBE (Other Business Enterprise) is any enterprise that is neither an SBE, VSBE, MBE, WBE, or DVBE.

EXHIBIT I

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(2) Please indicate the **Local Business Enterprise** status of your company. Only one box must be checked:

☐ LBE ☐ Non-LBE

- A Local Business Enterprise (LBE) is: (a) a business headquartered within Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties; or (b) a business that has at least 50 full-time employees, or 25 full-time employees for specialty marine contracting firms, working in Los Angeles, Orange, Riverside, San Bernardino, or Ventura Counties. "Headquartered" shall mean that the business physically conducts and manages all of its operations from a location in the above-named counties.
- A Non-LBE is any business that does not meet the definition of a LBE.

Signature: _____

Title: _____

Printed Name: _____

Date Signed: _____

NOTARY:

On this _____ day of _____, 20____, before me appeared _____
_____ to me personally known, who being duly sworn, did execute the
Name

foregoing affidavit, and did state that he/she was properly authorized by
_____ to execute the affidavit and did so as his or her free act and deed.

Name of Firm

SEAL

Notary Public: _____

Commission Expires: _____

EXHIBIT I

3 of 5

Consultant Description Form

PRIME CONSULTANT:

Contract Title: _____

Business Name: _____ Award Total: \$ _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES _____ NO _____ (Check only one)

Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

➤ I certify that I have utilized the LABAVN to outreach to SBE/VSBE/MBE/WBE/DVBES of potential subcontracting opportunities associated with this RFP. _____ Yes (Please check)

SUBCONSULTANT:

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES _____ NO _____ (Check only one)

Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONSULTANT:

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES _____ NO _____ (Check only one)

Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____

EXHIBIT I

Consultant Description Form

SUBCONSULTANT:

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES _____ NO _____ (Check only one)

Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONSULTANT:

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES _____ NO _____ (Check only one)

Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email Address: _____

SUBCONSULTANT:

Business Name: _____ Award Total: \$ _____

Services to be provided: _____

Owner's Ethnicity: _____ Gender _____ Group: SBE VSBE MBE WBE DVBE OBE (Circle all that apply)

Local Business Enterprise: YES _____ NO _____ (Check only one)

Primary NAICS Code: _____ Average Three Year Gross Revenue: \$ _____

Address: _____

City/State/Zip: _____

Telephone: () _____ FAX: () _____

Contact Person/Title: _____

Email address: _____

Equal Benefits Ordinance

Sec. 10.8.2.1. Equal Benefits Ordinance.

Discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work. Los Angeles law prohibits entities doing business with the City from discriminating in employment practices based on marital status and/or sexual orientation. The City's departments and contracting agents are required to place in all City contracts a provision that the company choosing to do business with the City agrees to comply with the City's nondiscrimination laws.

It is the City's intent, through the contracting practices outlined in this Ordinance, to assure that those companies wanting to do business with the City will equalize the total compensation between similarly situated employees with spouses and with domestic partners. The provisions of this Ordinance are designed to ensure that the City's contractors will maintain a competitive advantage in recruiting and retaining capable employees, thereby improving the quality of the goods and services the City and its people receive, and ensuring protection of the City's property.

(c) Equal Benefits Requirements.

(1) No Awarding Authority of the City shall execute or amend any Contract with any Contractor that discriminates in the provision of Benefits between employees with spouses and employees with Domestic Partners, between spouses of employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(2) A Contractor must permit access to, and upon request, must provide certified copies of all of its records pertaining to its Benefits policies and its employment policies and practices to the DAA, for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance.

(3) A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment: "During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners." The posted statement must also include a City contact telephone number which will be provided each Contractor when the Contract is executed.

(4) A Contractor must not set up or use its contracting entity for the purpose of evading the requirements imposed by the Equal Benefits Ordinance.

(d) Other Options for Compliance. Provided that the Contractor does not discriminate in the provision of Benefits, a Contractor may also comply with the Equal Benefits Ordinance in the following ways:

(1) A Contractor may provide an employee with the Cash Equivalent only if the DAA determines that either:

a. The Contractor has made a reasonable, yet unsuccessful effort to provide Equal Benefits; or

b. Under the circumstances, it would be unreasonable to require the Contractor to provide Benefits to the Domestic Partner (or spouse, if applicable).

EXHIBIT J

(2) Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent Benefits.

(3) Provide Benefits neither to employees' spouses nor to employees' Domestic Partners.

(e) Applicability.

(1) Unless otherwise exempt, a Contractor is subject to and shall comply with all applicable provisions of the Equal Benefits Ordinance.

(2) The requirements of the Equal Benefits Ordinance shall apply to a Contractor's operations as follows:

a. A Contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the Contract.

b. A Contractor's operations on real property located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the Contractor's presence at or on that property is connected to a Contract with the City.

c. The Contractor's employees located elsewhere in the United States but outside of the City limits if those employees are performing work on the City Contract.

(3) The requirements of the Equal Benefits Ordinance do not apply to collective bargaining agreements ("CBA") in effect prior to January 1, 2000. The Contractor must agree to propose to its union that the requirements of the Equal Benefits Ordinance be incorporated into its CBA upon amendment, extension, or other modification of a CBA occurring after January 1, 2000.

(f) Mandatory Contract Provisions Pertaining to Equal Benefits. Unless otherwise exempted, every Contract shall contain language that obligates the Contractor to comply with the applicable provisions of the Equal Benefits Ordinance. The language shall include provisions for the following:

(1) During the performance of the Contract, the Contractor certifies and represents that the Contractor will comply with the Equal Benefits Ordinance.

(2) The failure of the Contractor to comply with the Equal Benefits Ordinance will be deemed to be a material breach of the Contract by the Awarding Authority.

(3) If the Contractor fails to comply with the Equal Benefits Ordinance the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

(4) Failure to comply with the Equal Benefits Ordinance may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

(5) If the DAA determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the Equal Benefits Ordinance, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, et seq., Contractor Responsibility Ordinance.

EXHIBIT J

**CABRILLO WAY MARINA
SLIP INVENTORY**

SLIP LENGTH	PHASE I	PHASE II	TOTAL
28	0	20	20
30	40	71	111
35	28	67	95
40	60	48	108
42	15	0	15
45	82	25	107
50	21	56	77
55	47	12	59
60	12	32	44
70	12	18	30
80	21	0	21
130	10	0	10
TOTAL	348	349	
GRAND TOTAL SLIP INVENTORY			697

ATTACHMENT 1



City of Los Angeles Harbor Department
CABRILLO WAY MARINA

2293 S. Miner Street, San Pedro, CA 90731

Office: (310) 514-4985

Fax: (310) 514-4987

CABRILLO WAY MARINA RULES

1. **ENVIRONMENTAL.** Oil, oily water or raw, untreated or treated sewage shall not be discharged into waters of the Port of Los Angeles. All sewage systems on vessels must be either U.S. Coast Guard approved or must be locked off while the vessel is docked. All spills of gas, diesel fuel, oil, or other hazardous materials must be reported immediately to all appropriate governmental authorities and the Marina Manager. Vessels may only be washed with biodegradable soaps and the amount of soap used must be kept to a minimum. Removed paint chips, sanding debris, hazardous chemicals, including oil, engine coolant, hydraulic fluid, gasoline, diesel, paint and mineral spirits may not be allowed to enter the water or the ground and may not be left where they might be exposed to rainwater. Proper disposal of all such sewage, oil products and chemicals is the sole responsibility of the vessel owner. The Marina office may be contacted for approved disposal sites.

2. **TRASH.** Garbage is not to be thrown overboard or stored on the docks. It must be placed in sealed plastic bags and placed in the dumpster provided. No oil products, paint or solvents, or other hazardous items are allowed in the trash. Used oil, oil filters and bilge pads may be disposed of properly in either of two used oil recycling centers provided by the City of Los Angeles, Harbor Department, and located in the Cabrillo Way Marina.

3. **NOISE.** Noise should be kept to a minimum at all times. Discretion in operating engines, generating plants, radios, televisions, other sound producing devices and other power equipment should be used so as not to create a nuisance or disturbance. No loud music or disturbances shall be allowed after 10:00 p.m. Except for entering or leaving the slip, main engines, power generating equipment or other noise making machinery shall not be operated between the hours of 10:00 p.m. and 8:00 a.m.

4. **SWIMMING AND FISHING.** Swimming, diving, and fishing are strictly prohibited at all times from the docks, fingers and piers, off the vessel, or any area within Cabrillo Way Marina and adjacent properties.

5. **STORAGE ON DOCKS.** Walkways shall be kept clear at all times. Storage of items must be confined to the dock box or the vessel and will not be permitted on the docks, finger piers, parking areas, etc. Any unapproved items found on a walkway or finger pier will be removed at the owner's expense. Dinghies are to be stored on the vessel and if are unidentifiable will be discarded by the Marina.

6. **PARKING AND MOTOR VEHICLES.** Parking is expressly for the use of Marina slip tenants and their guests. Violators will be towed at the owner's sole risk and expense. Unless authorized by the Marina Manager for special circumstances, motor homes, campers and trailers of any type are prohibited. No vehicle shall remain in the parking lots in excess of 72 hours without approval of the Marina Manager. Storage of vehicles is not permitted. All vehicles belonging to Vessel Owners must post a Marina issued parking permit and park in designated parking areas. Cabrillo Way Marina does

not warrant the availability or security of parking. The Marina disclaims responsibility for vehicles parked in the parking lots, including damage to, theft of or theft from vehicles. No overnight accommodations will be allowed on a trailer, recreational vehicle or other camping equipment on Marina property.

7. COOKING AND CAMPFIRES. No open fires, BBQ's or cooking stoves are permitted on the docks in the Marina. Only BBQ's approved by the Marina Manager may be used onboard vessels while docked in the Marina.

8. FIREWORKS. Absolutely no fireworks of any kind may be used or stored anywhere within the Marina or dock boxes.

9. PETS. Will be permitted only if they do not create a disturbance or nuisance. All pets (dogs) must be leashed while on marina property including gangways and parking areas. All Animals must be closely supervised for safety and sanitation. All animals (except seeing eye dogs) are prohibited from entering marina boater facilities. Pet owners are responsible to clean up debris left by their pets. Marina reserves the right to bar any pet from the Marina. All pets belonging to liveaboards must be approved by Marina and registered.

10. VESSEL MAINTENANCE. Vessel owners are allowed reasonable latitude regarding the care and maintenance of their vessels. However, the limits set forth below apply, consistent with the "CABRILLO WAY MARINA Environmental Procedures for In-Water Boat Maintenance," as attached to this document and considered a part thereof. Work above the rail or in the interior of the vessel may be performed if it presents no hazard and creates no nuisance and does not interfere with other work in the immediate vicinity being performed by Marina employees or other vessel owners, captains or crew. Other than employees or approved subcontractors of the Marina, and approved subcontractors employed by Vessel Owner and registered in Marina, only vessel owners or a vessel owner's employees who normally operate the vessel may perform work. Approval to perform work other than normal maintenance must be obtained from the Marina Manager. **Hull repairs, major engine repairs/overhaul, major sanding and painting, major carpentry/rebuilding projects will not be approved.** Any approved project must be accomplished strictly in compliance with all applicable laws and regulations; any violations will cause immediate stoppage of work, and may lead to cancellation of project approval. Repairs that may damage the docks are not allowed. Vessel owners are liable for any damage to Marina property which occurs as a result of such repairs. At the end of the day, all tools, lumber, supplies, etc., shall be neatly stored upon the vessel. Work areas shall be covered with tarps, in order to maintain a neat appearance. Work items and debris shall not be left on docks or finger piers. Debris that results from repairs shall be removed from Marina property by the vessel owner. Outside contractors must be registered with the Marina, provide proof of current sufficient liability insurance and worker's compensation insurance prior to commencement of work.

11. SEAWORTHY CONDITION OF VESSEL. All vessels are to be maintained in a sound and seaworthy condition as defined in Tariff No. 4, Item No. 2215. When this fails to occur and/or Marina considers there to be a risk of sinking, fire or other hazard, the Marina may, at its sole discretion, give the vessel owner 30 days' notice in writing in which to correct the problem(s). Failure to do so will be a **DEFAULT** in the terms of the Agreement. The Marina reserves the right to perform periodic vessel inspections to determine the seaworthiness of any vessel berthed within Cabrillo Way Marina.

12. LAUNDRY. Laundry shall not be hung on vessels or docks.

13. ELECTRICAL. All connections made to the Marina receptacles must be U.L. approved, marine-type. Wiring must be of adequate size for power provided. The determination to use electricity is the vessel owner's sole responsibility and duty and the vessel owner assumes all risks therefore. Cords are not allowed to cross the top of walkways. No alterations or modifications to any electrical outlet used for servicing a vessel with shore power shall be made. Plugs must match the receptacle used.

14. WEAPONS. No weapons or discharging of any weapons of any kind are permitted on Marina premises.

15. SLIP AREA. No portion of a vessel (i.e. hull, bowsprit, plank, bow pulpit, etc.) shall overhang the walkway at any time nor extend into the waterway more than 3 feet unless approved in writing by the Marina Manager. Private gangways will not be allowed to block access to another vessel. Boarding steps shall not exceed one-half the width of the fingers and are subject to approval by the Marina. Vessel owners shall keep their slip free from debris. Hoses and electrical cords must be coiled and kept in a fashion as to allow clear, safe passage on headwalks and fingers. **NO DOCK WHEELS SHALL BE INSTALLED IN THE SLIPS.**

16. WAKE. **No wake allowed!** Vessel owners are responsible for damages caused by their vessel's wake regardless of compliance with posted speed limits. Maximum speed in marina waters shall be 3 MPH.

17. MOORING LINES. Vessel owners shall provide and maintain appropriate sized mooring lines in good working order and condition and will be responsible for tying up their vessel so as not to damage other vessels or property including the dock. If Marina employees have to retie a vessel at any time, due to poor mooring lines, there will be a labor and material charge assessed against the vessel owner.

18. LIVE-ABOARDS. Occupying a vessel more than 14 days in any 30-day period is considered residential use and is strictly prohibited unless approved in writing by the Marina. All persons desiring to live-aboard must submit a Live-Aboard Addendum to the Marina and receive Marina approval of the Addendum prior to occupancy. Once approved, no more than 3 occupants may live on board the vessel. Refer to Item 18 of the Slip Assignment Agreement.

19. WALKWAYS. Do not run on walkways, gangways or fingers of dock areas. Deck shoes are suggested for your safety. If water or mooring lines, or any other item is required to cross a dock, it must be routed underneath or in a recessed area so as not to present a tripping hazard.

20. FUEL. Personal fueling of vessels (carrying fuel in gas cans, etc.) is not allowed within the Marina. Storage of gasoline, fuel, or other combustibles on the docks is strictly forbidden.

21. CHILDREN. Children under 12 years of age are not permitted on the docks without a parent or responsible adult in attendance. Non-swimmers and young children are requested to wear life jackets when on docks or watercraft decks.

22. BICYCLES AND JET SKIS. The use of motorcycles, motor scooters, skateboards, rollerblades, skates, and bicycles is not permitted on Marina docks.

23. COMMERCIAL ACTIVITY. No commercial activity shall be conducted at the Marina. Commercial activities include, but are not limited to, rental or leasing of vessels, chartering of vessels, use of the

Marina address, use of a number of a telephone or facsimile on a vessel in any advertising, brochure, letterhead, business card, or other commercial document. No advertising or soliciting is permitted in the Marina. Permittee may display one "For Sale" sign on the vessel not to exceed 12 inches by 18 inches in size.

24. DOCK CARTS. Dock carts are provided for your convenience. Please leave the carts in a clean condition and return them to the gangway after use.

25. GATES AND KEYS. Keys and/or key cards for the gates and restrooms are provided for a deposit of \$25 per key, with a maximum of 2 keys, at the beginning of tenancy. Replacements or extras are available for an additional fee.

26. OTHER. These rules of the Marina are subject to change and may be amended from time to time as deemed necessary by the City.

27. ATTENTION. PLEASE NOTIFY THE MARINA OFFICE OR LOS ANGELES PORT POLICE OF ANY UNSAFE, UNLAWFUL, OR HAZARDOUS CONDITIONS THAT COME TO YOUR ATTENTION.

CABRILLO WAY MARINA – BOAT MAINTENANCE POLICY

Boaters that perform in-water boat maintenance activities run a high risk of releasing chemicals or materials that can harm aquatic life and violating federal, state or local laws. To minimize this risk, our marina policy allows only small maintenance projects to be performed on boats while in the water. Substantial work is not permitted to be performed in the water; boats must haul out for these types of projects.

Work that is allowed must be performed in a responsible manner using the best management practices detailed below. This marina reserves the right to restrict any boat maintenance activity that appears, in the judgment of the dock master, to threaten water quality or to be in violation of applicable regulations.

The most important thing to keep in mind is that the best way to protect the water is to perform as little in-water maintenance that can result in discharges as possible.

GENERAL CONSIDERATIONS

1. All work conducted on marina premises will conform to the policies specified herein.
2. All self-employed boat workers and independent contractors will register with and receive approval from the marina manager before conducting work on the marina premises.
3. Major repairs cannot be performed in water and must be performed in boat yards or other appropriate facilities. Boat owners and their contractors may undertake smaller boat projects as needed to maintain their vessel's safety, appearance, and performance. As a guide, projects should involve less than 25% of the surface above line and be conducted in a debris- and pollution-free manner. Boat owners must inform marina management prior to beginning work.
4. Planned repairs and maintenance must be legal and safe to do. Boaters will obtain any required permits prior to beginning maintenance activities.

5. No material of any type resulting from maintenance work shall be allowed to become airborne, or enter the waters of the Harbor District marinas.
6. Remember the law. The California Regional Water Quality Control Board, and/or Fish and Game may impose penalties of up to \$25,000 per violation for discharge of a hazardous substance into any State waters. This can include paints, varnishes, solvents, paint chips, or sandings.

TOPSIDE BOAT MAINTENANCE AND CLEANING

The use of a variety of boat cleaners, such as detergents, teak cleaners and fiberglass polishers can contribute to pollution and nutrients entering the water. The use of solvents, paints, and varnishes for in-slip boat maintenance can also contribute to pollution entering the water. The best way to protect the water is to perform only small maintenance jobs in the slip.

BOAT CLEANING

1. When cleaning the top-side, use the least amount of cleaning product necessary to accomplish the task. Because many of these products contain pollutants (e.g., phosphates, ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye) that can harm the environment, their use should be minimized or avoided. Use more elbow grease and less product.
2. If you must use a cleanser, use less-toxic phosphate-free and biodegradable boat cleaning products.
3. Reduce the amount of product needed to clean the topside by cleaning more frequently with freshwater, or by covering the boat.
4. Use or ask your topside maintenance service provider to use environmentally friendly cleaning products.

PREPARATION

1. Drape vessel with tarps to catch drips and wastes from projects.
2. Cover the water between boat and dock with visquine or tarps.
3. Plug scuppers to contain dust and debris.
4. Ventilate your space to prevent the accumulation of flammable or noxious fumes.
5. Take measures to prevent spillage of solvents. Always use secondary containment when using solvents.
6. Immediately clean up any spills onto tarps or boat deck to prevent material from entering into the water.

SANDING

1. No sanding should be performed on windy days.
2. In-water top-side sanding should be limited to touch up jobs. Do not allow dust from sanding debris from surface preparation/maintenance activities to enter the water.
3. Use vacuum sanders with attached collection bags.
4. Use tarps, plastic covers and vacuums to contain and capture any material.
5. Do not sand with steel wool.
6. Sweep or vacuum all residual sanding dust and dispose of properly.

USE OF SOLVENTS, PAINTS, VARNISHES, ETC.

1. Painting, varnishing, and other finishing work shall be limited to touch-ups and repairs.
2. Spray painting of vessels in the water is not permitted in the marina.
3. Use water-based solvents.
4. Use less-toxic paints and varnishes, including water-based products. Choose paints with low volatile organic compound (VOC) content.
5. The use of tributyltin (TBT)-based paints is prohibited by law.
6. Use teak cleaners sparingly. Consider allowing teak to fade to gray and rinse it occasionally with salt water to remove the dirt; or, for the look of freshly sanded teak, scrub teak decks with salt water and let the sun bleach them.
7. To avoid spills in the water:
 - Open containers (paints, varnishes etc.) are not allowed on the docks.
 - If a material is in use, the open container may be permitted topside on the boat, as long as it is in secondary containment and all scuppers are plugged.
 - Always mix paints, varnish, epoxy, and other products over a tarp in a drip pan.
 - Remove oil, debris and clutter from your immediate work area.
8. Dispose of leftover paints, solvents, or varnishes at a hazardous waste disposal facility. The Gaffey Street SAFE Center is located at 1400 N. Gaffey St in San Pedro, CA, and is open from 9:00 AM to 3:00 PM Friday, Saturday, and Sunday

(see http://www.lacitysan.org/solid_resources/pdfs/safe-gaffey-flyer_english.pdf). For other locations, call Earth 911's hotline at (800) CLEANUP or visit earth911.com.

UNDERWATER BOAT HULL CLEANING

Consideration should be given to using bottom paints that do not pollute our environment. Frequent underwater hull cleaning can enhance vessel performance and protect it from the elements such as marine growth and corrosion. Underwater hull cleaning should be guided by BMPs that will clean a vessel in such a way as to protect and preserve the bottom while causing minimal impact to the environment.

1. No bottom paints containing TBT are permitted within the marina.
2. Wait 90 days after applying new bottom paint to clean the hull. Paints release more toxicant when new.
3. Schedule regular hull cleaning and maintenance to reduce the build-up of hard marine growth and eliminate the need for hard scrubbing. Regularly scheduled gentle cleaning also increases the effectiveness of the antifouling hull paint and extends its useful life.
4. Perform hull cleaning in accordance with the correct procedure for the type of hull coating.
 - “Soft” sloughing and ablative (self polishing) hull paints release copper when cleaned underwater. Refrain from underwater cleaning.
 - Hard finish, conventional anti-fouling paints release less toxicant with underwater cleaning.
5. Clean gently to avoid creating a plume or cloud of paint in the water.
 - Use only a piece of carpet, sponge or other soft materials to clean the hull.
 - Use soft nylon or similar material on rotary brush machines.
 - Use more rigorous cleaning pads only as needed to remove hard marine growth.
6. When marine growth is significant and cannot be removed without abrasive cleaning methods, assess whether such cleaning can be performed without paint removal occurring. If cleaning may lead to paint removal, refrain from cleaning in the slip. Instead, haul out to a designated area to clean the boat bottom.
7. Use stainless steel brushes and pads on non-painted, metal areas only.
8. Do not sand or strip hull paint underwater.
9. Repair paint bonding problems at haul out to avoid further chipping and flaking of paint in the water. When repainting the hull, haul out to a boat maintenance yard. Choose environmentally friendly hull paint. Use proper application procedures for hull painting.
10. Boaters should notify hull cleaner service provider as to what type of bottom paint was used and when the hull was last painted. Boaters are encouraged to use boat hull cleaning companies and individuals that practice environmentally friendly methods.
11. Collect spent zinc anodes for recycling.

OTHER MAINTENANCE POLICIES

ENGINES, BILGES, AND OIL DISCHARGE

1. Oily bilge water shall not be pumped overboard. Instead, use a bilge pump-out station or service. If feasible, find a bilge pump-out station or service that processes the oily water and reclaims the oil for recycling. Refer to the Clean Marina Local Resource Map posted on the public bulletin board or in the marina's copy of the POLA Clean Marina Guidebook.
2. Port tariff prohibits the discharge of any amount of oil, or bilge water containing any amount of oil, into harbor waters (POLA Tariff No. 4, Section 1873).
3. It is illegal to use soaps or detergents to disperse an oil sheen.
4. During oil changes, take measures to eliminate the discharge of oil from the automatic bilge pump. Don't drain oil to the bilge. Conduct all oil changes, and oil or fuel transfers using spill-saving devices, such as funnels, drip pans, or oil pumps that transfer used oil to a closed container for transfer to a recycling facility.
5. If oil or fuel inadvertently reaches the water, oil absorbent booms or other absorbent materials must be placed around the spill and appropriate clean-up actions taken. If the oil spill is large, an oil spill response company must be called to clean up the spill.
6. Spills of oil or chemicals into the water shall be reported to the federal reporting number (800) 424-8802 (National Spill Response Center), and the state reporting number (800) OILS-911 (Marine Oil Spill Reporting).
7. Used oil and oil filters must be separated from other waste and recycled.
8. Diesel and gasoline must be disposed of as hazardous waste.
9. Used oil absorbents must be recycled or disposed of as hazardous waste.

HAZARDOUS WASTE

1. Segregate and recycle spent antifreeze and used oil. Never mix with solvents, paints, etc.
2. Recycle all used lead-acid batteries.
3. Properly dispose of all hazardous waste. The nearest household hazardous waste center is the Gaffey Street SAFE Center, located at 1400 N. Gaffey St in San Pedro, CA. The center is open from 9:00 AM to 3:00 PM Friday, Saturday, and Sunday. For other locations, call Earth 911's hotline at (800) CLEANUP.

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MAJOR ENVIRONMENTAL REGULATIONS RELEVANT TO BOAT MAINTENANCE

Oil Pollution Control Act: As set forth in the Code of Federal Regulations (CFR), 33CFR40, this act requires vessel owners to report any hazardous waste spilled from a vessel. Owners are responsible for cleanup and any damages. Marinas are responsible for any oil contamination resulting from activities at their facilities including dumping or spilling oil or oil-based paint and the use of chemically treated agents. The act is administered by the US Coast Guard.

Porter-Cologne Act: This law allows California to administer its own clean water regulations (see http://www.swrcb.ca.gov/laws_regulations/docs/portercologne.pdf for more detail). It is at least as stringent as the federal CWA and in some cases, more restrictive. The Porter-Cologne Act established the SWRCB as the ultimate authority over water quality policy and the nine Regional Water Quality Control Boards (RWQCBs) to oversee water quality on a day-to-day basis at the local/regional level. One important function of the RWQCBs is to develop regional Basin Plans, which establish beneficial uses of protected surface and ground waters. The Basin Plans set narrative and numerical objectives that must be attained or maintained to protect the designated beneficial uses and conform to the state's anti-degradation policy, and describe different implementation programs to protect all waters in the region. The plans also include measures to control non-point sources of pollution. For more detail on the Los Angeles Region Basin Plan:

(LA RWQCB, 1995) see: http://www.swrcb.ca.gov/rwqcb4/water_issues/programs/basin_plan/

SB 1916 Marine Vessel Service and Repair Project: This technical assistance and outreach project of the Department of Toxic Substances Control (DTSC) is designed to implement Pollution Prevention (P2) BMPs for the reduction or elimination of hazardous waste in the boatyard and marina environment. Please refer to see DTSC's program website for more detail,

http://www.dtsc.ca.gov/PollutionPrevention/SB1916/upload/P2_REP_sb1916_06-08_workplan.pdf

The project seeks to expand P2 outreach to marine vessel service and repair facilities through liaisons with existing industry associations and local and regional government organizations, i.e., the Clean Marinas California Program, Department of Boating and Waterways, and the Certified Unified Program Agencies (CUPA), that currently provide regulatory and informational assistance for commercial and recreational boating activities within the State.

California Fish and Game Code 5650: This code states, in part, that it is unlawful to deposit, permit to pass into, or place where it can pass into the waters of the state: any petroleum or residual product of petroleum; any sawdust, shavings, slabs or edgings; any substance or material deleterious to fish, plant life, or bird life. Persons who violate Section 5650 are subject to a civil penalty of up to \$25,000 per violation.

Port Tariffs: A Port Tariff is the published set of rates, charges, rules and regulations for those doing business with a port. A tariff is generally applicable to all port users, although individual tenant operating leases may set additional and/or different requirements. Port Tariffs govern a variety of activities in the two San Pedro Bay Ports, including vessel operating procedures, fees, wharf and dock usage, and the use of hazardous or polluting substances on or near the water. Each port publishes its own version of the tariff, but the two versions address largely the same issues. The tariff contains prohibitions on discharging oil, wastes, waste and bilge waters, and rubbish into or near harbor waters. POLA's Tariff (Section 22) also establishes restrictions on recreational boats in port marinas. Because they are enforceable and can set penalties similar to municipal codes, the tariffs give the Ports broad powers to regulate activities within their boundaries.

REV. 5.28.13

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RATES AND FEES

Wet Slip Rates (effective July 2013– June 2017)

Boat Tenants (post 8/1/2010)						
2013		2014	2015	2016	2017	
Slip Size per l.f.	Rate per l.f.	Rate per l.f.	Rate per l.f.	Rate per l.f.	Rate per l.f.	
28	\$11.25	\$11.59	\$11.94	\$12.29	\$12.66	
30	\$12.25	\$12.62	\$13.00	\$13.39	\$13.79	
35	\$13.75	\$14.16	\$14.59	\$15.02	\$15.48	
40	\$15.00	\$15.45	\$15.91	\$16.39	\$16.88	
42	\$15.50	\$15.97	\$16.44	\$16.94	\$17.45	
45	\$16.00	\$16.48	\$16.97	\$17.48	\$18.01	
50	\$17.00	\$17.51	\$18.04	\$18.58	\$19.13	
55	\$17.75	\$18.28	\$18.83	\$19.40	\$19.98	
60	\$18.25	\$18.80	\$19.36	\$19.94	\$20.54	
70	\$20.25	\$20.86	\$21.48	\$22.13	\$22.79	
80	\$22.25	\$22.92	\$23.61	\$24.31	\$25.04	
130	\$30.00	\$30.90	\$31.83	\$32.78	\$33.77	

Boat Tenants (pre 8/1/2010)						
2013		2014	2015	2016	2017	
Slip Size per l.f.	Rate per l.f.	Rate per l.f.	Rate per l.f.	Rate per l.f.	Rate per l.f.	
28	\$8.50	\$9.50	\$10.50	\$11.25	\$12.66	
30	\$9.25	\$10.25	\$11.25	\$12.25	\$13.78	
35	\$9.50	\$11.00	\$12.50	\$13.75	\$15.47	
40	\$10.25	\$12.00	\$13.75	\$15.00	\$16.88	
42	\$10.25	\$12.00	\$13.75	\$15.50	\$17.44	
45	\$10.50	\$12.50	\$14.50	\$16.00	\$18.00	
50	\$10.75	\$13.00	\$15.25	\$17.00	\$19.13	
55	\$11.00	\$13.50	\$16.00	\$17.75	\$19.97	
60	\$11.00	\$13.50	\$16.00	\$18.25	\$20.53	
70	\$11.50	\$14.50	\$17.50	\$20.25	\$22.78	
80	\$12.00	\$15.50	\$19.00	\$22.25	\$25.03	
130	\$14.00	\$19.50	\$25.00	\$30.00	\$33.75	

Dry Storage Rates (effective July 2013– June 2017)

Dry Storage						
2013			2014		2015	
Size per l.f.	Rate per l.f.		Rate per l.f.		Rate per l.f.	
18	\$7.00		\$7.21		\$7.43	
26	\$7.50		\$7.73		\$7.96	
30	\$8.00		\$8.24		\$8.49	
36	\$8.50		\$8.76		\$9.02	
46	\$9.00		\$9.27		\$9.55	
					\$9.83	
						\$10.13

Charges are per foot of slip length or overall length of vessel whichever is greater. Vessel length shall be rounded to the nearest foot, using 6 inches as the midpoint for the next highest increment.

OTHER RATES AND FEES

Transient Dockage Rates (effective July 1, 2013)

- a) Daily - \$1 per foot/per day, \$25 daily minimum, up to five days
 - b) Weekly - \$5 per foot/per week, \$125 weekly minimum, up to three weeks
 - c) Monthly - \$20 per foot/ per month, \$500 monthly minimum, up to three months
 - d) Over 75' in length - \$2 per foot/per day, \$10 per foot/per week, \$40 per foot/per month
- *Live aboard policies apply to all Transient Vessels

Live aboard Rate (effective July 1, 2013): Vessel must be 30' or greater in length to be authorized for living aboard. Vessels authorized for living aboard will be charged 140% of the current wet slip rates.

Towing (effective July 1, 2013): \$3.00 per foot of the vessel length with a minimum charge of \$50.00

Impound: \$35.00 plus a daily storage charge of \$1.00 per foot of vessel length.

Utilities: Slip assignment permittee shall be obligated to pay electrical usage for the designated slip.

Advance Deposit: Slip rental advance deposit may be equal to one to two month's rent, depending on credit history, vessel condition, and negative referral inquiries. Within 60 days after notice from the Marina Manager, the slip permittee shall deposit additional sums necessitated by a slip fee increase.

Other Fees: Fees are due on the first of every month. Payments will be deemed late on the 11th of the month. Vessel Owners will be levied a \$25.00 late fee accrued for each month a payment is delinquent and is assessed on the 11th day of the month. An additional ten percent (10%) interest fee may be assessed on any outstanding balance.

Adjustment of Fees by Board: Any Fees may be amended by the Board upon 30 days written Notice.



CITY OF LOS ANGELES HARBOR DEPARTMENT
CABRILLO WAY MARINA
2293 S. Miner Street
San Pedro, CA 90731

SLIP ASSIGNMENT AGREEMENT

Berth:	Dock:	Gangway:	Slip:
--------	-------	----------	-------

Effective Date: _____

PERMITTEE

Legal Owner: _____
Last First Middle

Residence: _____

City: _____ Zip Code: _____

Phone: (____) _____ Business Phone: (____) _____

DESCRIPTION OF VESSEL

Vessel Name: _____ CF/ Doc No.: _____

Reg./Doc. Length: _____ Overall length: _____ Beam: _____ Draft: _____ Type: _____

Bowsprit: _____ (ft) Davits: _____ (ft) Swim Step: _____ (ft) Other: _____ (ft)

Builder: _____ Material: _____

Name of Engine: _____ H.P. _____ Twin: _____ Single: _____ Gas: _____ Deisel _____

Radio Call Letters: _____

Remarks:

MARINA OPERATOR USE ONLY

Original Application Date: _____

Update: _____

Transfer: _____

Slip Length: _____ BLOA: _____

Liveaboard: Y: _____ N: _____

No. of Occupants: _____

Liveaboard Date: _____

Slip Deposit: _____

Key Deposit: _____

Termination Date: _____

Account No.: _____

1. **AGREEMENT.** City of Los Angeles ("City") hereby grants permission to Vessel to use the wet slip designated above (the "Slip") located at Cabrillo Way Marina to moor the vessel described above, including all its rigging, engines, appurtenances and contents (the "Vessel"). **This Agreement shall not be construed to grant or convey any interest in real property.** City reserves the right to change the Slip assignment at any time or move the Vessel for normal marina operations or repairs or for emergencies.
2. **TERM.** The term of this Agreement shall begin on the Effective Date provided above and continue on a calendar month to calendar month basis. Either party may terminate this Agreement by giving the other party at least thirty (30) days written notice. Upon termination, Vessel Owner shall immediately apply all sums due Marina and remove the Vessel from Cabrillo Way Marina.
3. **SLIP FEES AND OTHER CHARGES.** Slip and other fees are payable in advance. Vessel Owner will be mailed a monthly invoice setting forth the slip and any other charges due. Amounts appearing on the monthly invoice are due on the 1st day of the month, and are considered late if not received by the 10th of the month. City shall be entitled to 10% interest on late payments, per annum. Non-receipt of billing invoices does not relieve Vessel Owner of the obligation to pay all charges due. All payments shall be made at the Marina Manager's address set forth above or as indicated on the invoice.
4. **SERVICE CHARGES.** Vessel Owner shall pay City a service charge of \$25.00, accrued monthly, for any payment received after the due date and for every check returned by payee's bank for insufficient funds. It shall be the sole discretion of the City whether a personal check will be accepted for future payments after a check has been returned uncollectable.
5. **SECURITY DEPOSIT.** Before the Vessel may be docked, Vessel Owner shall pay to City a security deposit, equal to one month's rent, to secure the performance of Vessel Owner's obligations under this Agreement, which shall not be in lieu of any slip fee. If Vessel Owner is in default on any payment, City may use the security deposit to satisfy any sum due to City under this Agreement or to defray any expense or damage reasonably incurred by reason of the default. The security deposit (without interest) shall be refunded to Vessel Owner within 60 days of termination of this Agreement, provided all the obligations of Vessel Owner under the Agreement are satisfied. City may commingle the security deposit with other funds held by City. If any part of the security deposit is used by City, Vessel Owner shall pay to City a like sum to replenish the security deposit. Vessel Owner's failure to replenish the security deposit within 60 days of notice to replenish said security deposit is a default under this Agreement which entitles Marina to terminate this Agreement.
6. **USE OF SLIP.** Vessel Owner may use the Slip to moor the Vessel, and for no other purpose. If Vessel Owner sells the Vessel and wants to use the Slip for another vessel, Vessel Owner must obtain authorization from and register the new vessel with City. Vessel Owner represents that he/she has an ownership interest in the Vessel and Vessel Owner is fully authorized to bind all owners of the Vessel to the terms and conditions of this Agreement. If an agent of Vessel Owner, including a captain, is signing this Agreement, said person must present proof that he/she has the authority to bind the Vessel Owner.

Vessel Owner shall not alter the Slip, dock area or utilities. Vessel Owner shall not install or place any personal property, dinghies, small vessels, equipment, boxes, or lockers of any type on the docks or over the Slip, without the written permission of Marina. No modification or changes, in any manner, to the slip, dock box, finger, or pilings shall be permitted under any circumstances. Use of Cabrillo Way Marina or the Slip for the purpose of conducting business including, but not limited to, chartering the Vessel, is prohibited unless authorized in writing by the City.

7. **LAWS, RULES, AND REGULATIONS.** In using Cabrillo Way Marina, Vessel Owner shall comply with the Marina Rules, the Port of Los Angeles Tariff No. 4, all laws, rules and regulations of federal, state and local entities, including environmental laws and rules and regulations of the U.S. Coast Guard. City may change the Marina rules or portions thereof, by posting revisions or otherwise notifying Vessel Owner of the change.
8. **ASSIGNMENTS.** Under no circumstances may the Vessel Owner sublet, assign or transfer this Agreement and/or the right to use the Slip.
9. **INSURANCE.**
- (a) Vessel Owner, at their sole expense, shall at all times during the course of this Agreement maintain, with an insurance company which is acceptable to Marina, a Protection and Indemnity policy of insurance with limits of not less than \$300,000 and a deductible of not more than \$10,000 per occurrence, naming Westrec Marina Management, Inc., the City of Los Angeles Harbor Department, and, its officers, agents and employees, as additional insureds. Vessel Owner shall also maintain a Hull and Machinery policy covering at least 100% of the present, actual cash value of the Vessel, with endorsements for extended perils, damage by fire, electrolysis and/or stray current, corrosion, vandalism and burglary.
- (b) Upon execution of this Agreement, Vessel Owner shall provide City with copies of the insurance policies evidencing coverage and shall produce evidence of the renewal of the policies prior to their expiration. All policies of insurance shall require 10 days advance notice for non-payment of premium, or 30 days advance notice for any other reasons, by the insurance company to City of any amendment or cancellation of policies.
- (c) All contractors employed by Vessel Owner shall: (1) register at the Marina Manager's Office prior to beginning work; (2) provide proof of insurance; and (3) comply with all applicable laws.
- (d) Failure to comply with any of the terms of this section shall, at the option of the City, be cause for termination of this Agreement by City.
10. **UTILITIES.** City shall make available to Vessel Owner at the Slip, electrical power and water. City expressly does not warrant the availability of utility services, and shall not be responsible for any damage or injury due to the interruption or unavailability of utility services. City does not warrant that the utility services will be compatible with the utility service requirements of the Vessel (including electrical interconnection requirements or the effect of electrolytic action). Prior to connecting any electrical component to the dock box, Vessel Owner shall confirm use of proper connection cables with Marina Manager. Vessel Owner shall be billed for actual electrical usage on a monthly basis. Vessel Owner shall be responsible to contact the local phone company for any phone connections required to the vessel.
11. **BOARDING AND REMOVAL OF VESSELS.** In case of perceived emergency, City is authorized to do whatever it deems reasonably appropriate, including boarding the Vessel, moving the Vessel or taking any other action, without liability for damages or loss of any kind arising from such action or inaction, unless such damage or loss directly results from City's gross negligence. Vessel Owner agrees to pay for any work done by City in such a perceived emergency. Vessel Owner agrees to have a working automatic bilge pump on the Vessel at all times.
12. **LIEN FOR FEES AND SERVICES.** City shall have a possessory lien on the Vessel pursuant to the California Harbors and Navigation Code to secure the performance by Vessel Owner of the terms and conditions of this Agreement and to secure payment by Vessel Owner for all services and supplies provided by City to Vessel Owner or on behalf of the Vessel. Notwithstanding termination of

this Agreement, City shall be fully authorized to **HOLD THE VESSEL AND SELL THE SAME** in accordance with applicable possessory lien law in the event Vessel Owner fails to perform the terms and conditions of this Agreement or fails to pay for services and supplies. So long as City continues to hold the Vessel, Vessel Owner shall be deemed to be holding over and shall be responsible for all continuing charges and expenses incurred by City and Holding Over fees as more fully described in Section 13. Vessel Owner expressly agrees that City shall also have the right to exercise any and all rights available to it under applicable federal admiralty law, including but not limited to the right to arrest the Vessel and recover any and all expenses incurred in so doing as custodia legis expenses.

13. **HOLDING OVER.** If the Vessel remains at the Slip following termination of this Agreement, and without otherwise limiting the rights of City hereunder, Vessel Owner shall be deemed to be occupying the Slip for purposes of transient moorage and shall pay City the then applicable daily rate of transient moorage for each day the Vessel continues to be moored at the Slip.

14. **RESPONSIBILITY FOR DAMAGE.** Vessel Owner shall be responsible for and shall promptly, upon demand, pay City for any costs or damage incurred by City or others due to acts or omissions of the Vessel Owner, the Vessel, or Vessel Owner's agents or guests. Vessel Owner shall not release or permit to be released, by action or inaction, any hazardous waste or environmentally objectionable substances, including oil, gasoline or untreated sewage ("Hazardous Substances") into the water or land of Cabrillo Way Marina. The costs for which Vessel Owner and Vessel may be responsible include, but are not limited to, the costs of booms, absorbent pads, disposal of the Hazardous Substance, clean up oversight by governmental agencies and City personnel, and any legal fees, costs and penalties incurred in defense of any violations. Vessel Owner shall be responsible for **immediately** reporting and cleaning up any such release. Vessel Owner shall **immediately** report any release to all appropriate government authorities and to the Marina Manager and shall keep Marina Manager informed on a daily basis of Vessel Owner's actions with respect to any clean up. If City is not satisfied, at City's sole discretion, with Vessel Owner's actions in reporting and cleaning up a release, City may take any action it deems appropriate regarding the release, at Vessel Owner's expense. This provision is in addition to, and not in lieu of, the provisions set forth in the Disclaimer of Liability and Agreement to Indemnify.

15. **DEFAULT; REMEDIES.** This Agreement specifies certain breaches by Vessel Owner that are so serious that City has reserved the right to immediately declare Vessel Owner in default and terminate this Agreement or seek other remedies without the notice periods specified below. (See Security Deposit, Section 5; Use of Slip, Section 6; Live-aboard, Section 19; Insurance Section 9). In all other cases, if Vessel Owner breaches this Agreement and such breach continues for ten days after City has given written notice of the breach to Vessel Owner, Vessel Owner shall be in default. Upon default, City may exercise any and all remedies available hereunder or at law.

Should Vessel Owner fail to timely pay all sums due and fail to remove the Vessel from Cabrillo Way Marina as required, then the Vessel shall be conclusively deemed abandoned, City shall be deemed an involuntary depository, and Vessel Owner shall incur a per diem moorage fee at the applicable daily rate for transient moorage. In the event of Vessel Owner's default or termination of this Agreement without removal of the Vessel, City may, either exercise its rights under Section 12 above, or, by notice to Vessel Owner, suspend the right of Vessel Owner to obtain access to Cabrillo Way Marina, to use the Slip and the Vessel without the necessity of the initiation of any legal proceedings.

16. **CUMULATIVE REMEDIES; NO WAIVER.** City's rights and remedies hereunder are cumulative, and pursuit of any remedy is not an election of remedies or a waiver of any other remedies. No waiver or forbearance of a breach of this Agreement shall be construed as a waiver or forbearance of any subsequent breach. The acceptance of any performance hereunder, or the payment of any amounts after the same has become due or at a time when any other default exists shall not constitute a waiver of the right to demand payment of all other amounts owed or a waiver of any other default then or existing thereafter.

17. **WARRANTIES.** City makes ***NO WARRANTIES, EXPRESS OR IMPLIED***, as to the condition of the Slip or Cabrillo Way Marina (including floats, walkways, gangways, ramps, equipment and related items) or the suitability of the Slip or Cabrillo Way Marina for Vessel Owner's intended purposes.

Vessel Owner acknowledges that Vessel Owner has had an opportunity to inspect Cabrillo Way Marina and the Slip prior to execution of this Agreement and agrees to accept both in their current condition and warn his crew, passengers and guests of any real or perceived defects and/or hazards found at the Marina or the Slip.

18. **NOTICES.** Any notice hereunder shall be in writing and shall be deemed to be given if and when it is personally delivered to the other party or five days after it is deposited in the mail, addressed to the other party at the addresses set forth in the Agreement. Vessel Owner is responsible for informing Marina Manager of any changes to Vessel Owner's current address and phone number.

19. **LIVE-ABOARDS.** Living aboard is restricted and requires written authorization from the City. Permittees not authorized to live aboard may not stay aboard more than 72 hours in any 7 day period (no consecutive back-to-back 72 hour periods) or staying aboard more than 3 nights per week. Vacation visits up to a yearly maximum of 21 days are permissible with prior written notice to the Marina Office and subsequent confirmation by the City. The Live-Aboard Addendum is hereby incorporated into this Agreement by reference. Providing false information with regard to live-aboard status, living aboard without permission of the City pursuant to an executed Live-Aboard Addendum, and failing to obtain written permission from the City with regard to changing status may result in immediate termination of live-aboard status and/or privileges at Cabrillo Way Marina and is a default under this Agreement.

20. **DISCLAIMER OF LIABILITY AND AGREEMENT TO INDEMNIFY.** The Disclaimer of Liability and Agreement to Indemnify, as agreed to by Vessel Owner, is hereby incorporated into this Agreement and outlined below:

- a. Vessel Owner assumes the risk of use of Cabrillo Way Marina and the Slip assigned pursuant to the Vessel Slip Agreement I have executed;
- b. City assumes no responsibility for, and ***SHALL NOT BE LIABLE*** for the care, protection and security of the Vessel;
- c. City not to be considered an insurer of my property under this Agreement;
- d. I, for the Vessel, myself, my agents and guests hereby agree that I will ***assume all responsibility*** for any injury or illness and related costs, medical expenses and damages of any kind that I or any of the above may incur arising out of or in any way related to our activity at Cabrillo Way Marina. I will hold City, its officers, agents, managers, employees, and assigns, free of any and all claims for liability, injury, illness, death, costs, medical bills or other damages incurred by me or my family, guests, heirs or assigns, **NO MATTER HOW CAUSED**, including injuries, illness, damages or death alleged to be partially or solely caused by City negligence or any acts or omissions for which City may be held strictly liable.

- e. I agree to **indemnify, defend and hold City harmless** from any and all claims, suits, actions, damages, liability or expense in connection with any injury to person(s) or property.
- f. I further agree that **under no circumstances** shall City be liable for indirect consequential, special or exemplary damages, whether in contract or tort (including strict liability and negligence) with respect to my use of the Slip and Cabrillo Way Marina.
- g. I acknowledge and accept that this **Disclaimer of Liability** is a personal contract subject to the admiralty laws of the United States.

21. **SEVERABILITY; ENTIRE AGREEMENT.** If any provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, this shall not affect any other provisions and this Agreement shall be construed as if such provision had never been contained in this Agreement. This Agreement is the entire Agreement between the parties and supersedes all prior Agreements. Except as otherwise provided in this Agreement, no changes to this Agreement are valid unless in writing and signed by both parties.

Vessel Owner on his own behalf and on behalf of Vessel acknowledges that he has read and fully understands this Agreement, including the Marina Rules set forth below. Vessel Owner certifies that the information provided is correct and agrees to promptly notify the Marina Manager in the event of changes to the above information. Copies of the current vessel registration and declaration pages of the current insurance policies are required to be kept at the marina office for as long as the Vessel is berthed within Cabrillo Way Marina.

"MARINA MANAGER"

"VESSEL OWNER AND VESSEL"

WESTREC MARINA MANAGEMENT, INC.
On behalf of the City of Los Angeles

VESSEL OWNER:

(Print Vessel Owner's Name)

By: _____
Marina Manager

VESSEL NAME: _____

Date: _____

Sign Here: _____
Vessel Owner

Date: _____

CABRILLO WAY MARINA PROPOSED OPERATING BUDGET						
Description	YEAR 1 July 2013 - June 2014	YEAR 2 July 2014 - June 2015	YEAR 3 July 2015 - June 2016	YEAR 4 July 2016 - June 2017	YEAR 5 July 2017 - June 2018	TOTAL
PROPOSED REVENUE						
OPERATING REVENUE						
Wet Slip rental	1,926,551	2,996,412	3,770,379	4,615,381	5,584,800	18,893,523
Guest Slips	75,000	78,750	82,688	86,822	91,163	414,422
Dry Storage	135,312	312,368	524,439	664,559	749,022	2,385,700
Laundry Machines	3,120	4,680	5,200	5,720	6,000	24,720
Vending Machines (if any) Net	1,200	1,200	1,200	1,200	1,200	6,000
Liveaboards	48,934	80,084	90,833	98,074	98,074	415,999
Storage Lockers	30,000	45,000	60,000	61,800	63,650	260,450
Electric	50,000	57,500	63,800	70,850	78,000	320,150
Interest Income	1,927	2,996	3,770	4,616	5,468	18,777
TOTAL	2,272,043	3,578,991	4,602,309	5,609,023	6,677,377	22,739,742
MISCELLANEOUS						
Tenant Refunds	(1,000)	(1,500)	(1,800)	(2,000)	(2,200)	(8,500)
Miscellaneous Revenues	1,000	1,500	1,800	2,000	2,200	8,500
Collection Income	4,000	4,400	4,700	5,000	5,300	23,400
Interest Income						-
Electric Usage Collections						-
TOTAL	4,000	4,400	4,700	5,000	5,300	23,400
TOTAL REVENUE	2,276,043	3,583,391	4,607,009	5,614,023	6,682,677	22,763,142
PROPOSED EXPENSES						
GENERAL & ADMINISTRATION						
Management Fee	91,042	143,336	184,280	224,561	267,307	910,526
Marina Staffing (Labor or Salary & Benefits)	658,433	678,186	698,532	719,488	741,072	3,495,710
Marketing, Events and Promotion	47,500	48,925	50,393	51,905	53,462	252,184
Accounting Services	72,000	74,160	76,385	78,676	81,037	382,258
Collection Services						-
Insurance	22,760	35,834	46,070	56,140	66,827	227,631
Permits/Licensing Fee	4,900	7,140	9,016	10,699	12,323	44,078
Sub-Contracting Services	75,000	77,250	79,568	81,955	84,413	398,185
Tax	250	250	250	250	250	1,250
Office Equipment & Repair	1,500	400	425	450	500	3,275
Office Supplies	7,000	7,500	8,000	8,500	9,000	40,000
Telecommunication (includes telephone, mobile phone and radio)	7,000	7,200	7,400	7,600	7,800	37,000
TOTAL	987,385	1,080,181	1,160,318	1,240,223	1,323,990	5,792,097

CABRILLO WAY MARINA PROPOSED OPERATING BUDGET

Description	YEAR 1 July 2013 - June 2014	YEAR 2 July 2014- June 2015	YEAR 3 July 2015- June 2016	YEAR 4 July 2016- June 2017	YEAR 5 July 2107-June 2018	TOTAL
OPERATIONS						
Security	254,040	261,661	271,560	271,560	279,550	1,338,371
Gardening/Landscaping	53,460	55,064	56,716	58,417	60,170	283,826
Janitorial/Custodial	38,000	45,600	54,720	65,664	78,797	282,781
Utilities	201,146	258,476	311,745	377,300	443,350	1,592,017
Refuse Disposal	35,000	39,700	40,900	42,200	43,500	201,300
Start Up Costs/ Equipment	244,000	120,000				
TOTAL	825,646	660,501	735,641	815,141	905,367	3,942,295
MAINTENANCE & REPAIR						
Equipment	8,000	1,700	1,800	1,900	2,000	15,400
Supplies	3,000	2,400	2,500	2,700	2,900	13,500
Lighting	3,000	6,000	6,600	7,260	7,986	30,846
Filters	2,500	2,750	3,025	3,328	3,660	15,263
Docks	3,000	6,000	10,000	12,000	14,000	45,000
Grounds	47,000	47,400	12,800	13,200	13,600	134,000
Irrigation	110,000	113,000	117,330	121,325	125,500	587,155
Vehicles/Boats	15,000	10,000	10,500	11,025	11,576	58,101
TOTAL	191,500	189,250	164,555	172,738	181,223	899,265
TOTAL EXPENSES	2,004,531	1,929,932	2,060,514	2,228,102	2,410,579	10,633,658
Net Operating Income	271,512	1,653,459	2,546,495	3,385,921	4,272,097	12,129,484

Estimated First Year Operating Revenue and Expenses

Operating Revenue

OPERATING	AMOUNT
Wet Slip rental	1,926,551
Guest Slips	75,000
Dry Storage	135,312
Laundry Machines	3,120
Vending Machines (if any) Net	1,200
Liveaboards	48,934
Storage Lockers	30,000
Electric	50,000
Interest Income	1,927
Subtotal	\$2,272,043
MISCELLANEOUS	
Tenant Refunds	(1,000)
Miscellaneous Revenues	1,000
Collection Income	4,000
Interest Income	
Electric Usage Collections	
Subtotal	\$4,000
TOTAL ESTIMATED REVENUE	\$2,276,043

Expenses

GENERAL & ADMINISTRATION	AMOUNT
Management Fee	91,042
Marina Staffing (Labor or Salary & Benefits)	658,433
Marketing, Events and Promotion	47,500
Accounting Services	72,000
Collection Services	
Insurance	22,760
Permits/Licensing Fee	4,900
Sub-Contracting Services	75,000
Tax	250
Office Equipment & Repair	1,500
Office Supplies	7,000
Telecommunication (includes telephone, mobile phone and radio)	7,000
Subtotal	\$987,385
OPERATIONS	
Security	254,040
Gardening/Landscaping	53,460
Janitorial/Custodial	38,000
Utilities	201,146
Refuse Disposal	35,000
Start Up Costs/ Equipment	244,000
Subtotal	\$825,646
MAINTENANCE & REPAIR	
Equipment	8,000
Supplies	3,000
Lighting	3,000
Filters	2,500
Docks	3,000
Grounds	47,000
Irrigation	110,000
Vehicles/Boats	15,000
Subtotal	\$191,500
TOTAL ESTIMATED EXPENSES	\$2,004,531

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