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STATE OF CALIFORNIA
California State Lands Commission
Attn: Title Unit
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

STATE OF CALIFORNIA
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 373-040-003
County: Contra Costa

WP 3194

LEASE PRC 8865.1

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

Section 1	Basic Provisions
Section 2	Special Provisions Amending or Supplementing Section 1 or 4
Section 3	Description of Lease Premises
Section 4	General Provisions
Exhibit A	Report of Annual Income Form (Years 1 -10)
Exhibit B	Best Management Practices for Marina Owners/Operators
Exhibit C	Best Management Practices for Berth Holders and Boaters

SECTION 1

BASIC PROVISIONS

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

MAILING ADDRESS: 525 Henrietta Street, Martinez, California 94553

LEASE TYPE: General Lease – Commercial Use

LAND TYPE: Sovereign

LOCATION: Suisun Bay where it joins with the Carquinez Strait, just west of the Benicia-Martinez Bridge (I-680), Contra Costa County.

LAND USE OR PURPOSE: Use, operation, and maintenance of the improvements and activities known as Martinez Marina, appurtenant uses, and other public recreational facilities adjacent to the Martinez Marina, authorized under this Lease and more particularly described in Section 1, Authorized Improvements.

TERM: 46 years; beginning February 1, 2010; ending January 31, 2056, unless sooner terminated as provided under this Lease.

CONSIDERATION: As specified in Section 2, Paragraph 1, et seq. and subject to modification as provided for in Section 4, Paragraph 2 – General Provisions.

AUTHORIZED IMPROVEMENTS:

EXISTING:

Marina related facilities: A commercial marina consisting of a dock system with approximately 400 berths, breakwater, pump out station, harbor master’s building (which contains marina-related offices, public restrooms, and a utility room), bait shop, four-lane boat launch ramp, marina parking lots, public fishing pier, and shoreline rip rap.

Upland facilities: Yacht club, Sea Scout building, boat repair facility, amphitheater, park, Bay Trail for walking or biking and with benches for viewing.

TO BE CONSTRUCTED:

Breakwater: The project proposes a combination of repairs, replacements, and new breakwater sections. Repairs include replacing support members and walers and associated connection hardware, and sheet panels that are missing or corroded. Sections of the east wall may be raised to prevent regular wave topping. The entrance will be redesigned by removing the existing angled entrance segment with new breakwater sections of steel or concrete, sheetpiles.

Marina: Replace the existing dock system with concrete-encased float modules providing a total of 367 slips, end ties, and side ties based on the following breakdown:

Berth Type	Slip Length (Feet)	Number Of Berths
Standard slips	30	42
	36	60
	40	88
	45	64

Berth Type	Slip Length (Feet)	Number Of Berths
	50	63
	55	21
	60	15
Total, standard slips		353
End ties	30	3
	36	2
	40	3
	45	2
	50	1
	60	1
Total, end ties		12
Side ties	150	1
	500	1
Total, side ties		2
Total berths		367

Utilities and services will be upgraded for power, water, and other services and a new pump-out station provided. Construction of fuel dock, a new bait shop, restroom/shower/locker facilities, and dry boat storage facility. Finished sites for proposed new restaurant/retail, service center, and maintenance center. Lessor approval required prior to construction of restaurant, service center, or maintenance center structures, or any other structure or facility not currently planned.

Dredging: Dredge approximately 274,800 cubic yards from the marina basin to restore depths required for safe navigation and perform periodic maintenance dredging pursuant to Section 2, Paragraph 17 B of this Lease.

CONSTRUCTION MAY BEGIN BY: March 1, 2011

AND BE COMPLETED BY: December 1, 2020

LIABILITY INSURANCE: Combined single limit coverage of not less than \$5,000,000, or equivalent staff-approved self-insurance program.

SURETY BOND OR OTHER SECURITY: \$1,500,000 construction bond
 \$2,000,000 performance bond

**SECTION 2
SPECIAL PROVISIONS**

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

1. CONSIDERATION:

A. Minimum Annual Rental:

- (1) Lessee shall pay a Minimum Annual Rental in the amount of \$10,000 for the marina beginning February 1, 2010 of this lease and on the lease anniversary date every year through year ten. This rent shall be paid regardless of whether any activities are conducted on or over the Lease Premises.
- (2) Lessee agrees to pay the Minimum Annual Rental stated in this Lease to Lessor without deduction, delay, or offset, at such place as may be designed by Lessor from time to time. Any rental due which is in excess of the Minimum Annual Rental stated in this Lease, shall be due and payable in accordance with the schedule set forth in Section 2, Paragraph 1 D, below.
- (3) It is specifically agreed that in the event of the termination of this Lease prior to its expiration date from any cause whatsoever, no portion of the Minimum Annual Rental paid in advance shall be refundable.

B. Percentage of Gross:

In addition to the Minimum Annual Rent specified in Paragraph A above, Lessee agrees to pay on the date specified in Paragraph D:

Five percent of gross rents received by the Lessee derived from the upland facilities (boat repair, amphitheater, yacht club, Sea Scouts) for Years One through Ten.

In addition to the minimum annual rent, beginning in Year Eleven Lessee agrees to pay the following:

- (1) A percentage of the Operator's Gross Income, derived annually from activities authorized in Section 1, Authorized Improvements, and conducted on or over the Lease Premises.
- (2) A charge(s) per gallon of fuel sold.
- (3) A percentage of Lessee's annual income derived from contractual rent or other consideration received from any operation, management, or activities conducted on the Lease Premises.
- (4) A percentage of the Lessee's or Operator's Gross Annual Income derived from the sale of Food and Beverages on the Lease Premises.

- (5) A percentage of the Operator's Gross Annual Income derived from all other sales of watercraft, goods, merchandise, or products sold by Lessee or Operator on the Lease Premises.
 - (6) A percentage of the Operator's Gross Income derived from all other unauthorized activities conducted on or over the Lease Premises and not covered in Paragraph (1) above.
 - (7) Actual percentages and charges for the activities described in Nos.1-6 above shall be negotiated by Lessor and Lessee starting in year nine, but no later than March 1, 2019.
 - (8) Expansion of the uses (activities) authorized in Section 1 of this Lease and/or additional uses shall be subject to Lessor's prior written consent and shall be subject to rent as specified herein. In the case where the expanded uses (activities) are commenced with Lessor's prior authorization, Lessee shall pay a rental as described in Paragraph B(1) above. If the expanded uses (activities) are commenced without Lessor's prior authorization, Lessee shall pay a rental as described in this Paragraph B.
- C. **Increases and Modification of Consideration:** Consideration under this lease is subject to modification by Lessor beginning the 11th anniversary of the effective date of the Lease and as specified in Section 4, Paragraph 2(b) – General Provisions.
- D. **Additional Rental:** Any rentals due in excess of the Minimum Annual Rental for each lease year shall be due and payable on or before April 25 of the following calendar year beginning February 1, 2010, and any such rental balance shall accompany the Report of Annual Income Form specified in Section 2, Paragraph 2, below.
- E. **Obligation to Pay Rent:**
- (1) Lessee agrees that any activity conducted from, on or over State-owned lands shall be deemed subject to payment of rent.
 - (2) Lessor has no objection to Lessee allocating berth, mooring, or docking of boats or the right of use of same to its operators. Beginning in Year 11, and in the event the Lessee does not collect rent from its operators or collect an amount that is less than market rent, the Lessee agrees to pay Lessor a percentage of the monthly fair market rental that would be charged to a marina patron for the use of a berth or mooring.
- F. **Definitions:** Section 2, Paragraph 1, Consideration beginning in Year 11 shall be controlled by the following definition:
- (1) **Gross Income:** To the extent applicable to activities conducted on the Lease Premises, Gross Income shall include all income earned on or over the Lease Premises by the Lessee and/or Operator and including, but not limited to:
 - (a) Rental from any sublease and operation agreements;

- (b) The sales price of any type of food and/or beverages sold by Lessee, Lessee's subtenants, or other whether for cash or credit and whether paid or not;
 - (c) The sales price of all other goods, wares, merchandise, or products sold by Lessee, or other whether for cash or credit and whether paid or not;
 - (d) Commission received or earned from non-lessee owned coin-operated vending machines or other devices, and all sums deposited in Lessee owned coin-operated vending machines or other devices;
 - (e) The charges made by the Lessee or other for the berthing, docking, mooring, or launching of boats and whether paid or not;
 - (f) The charges made by the Lessee or others for the rental of any type of equipment or product, whether for cash or for credit and whether paid or not; and
 - (g) Any other income, whether for cash or credit generated directly from, or on the leased area by the Lessee's or any other person's operations and whether paid of not;
- (2) **Allowable Reductions to Gross Income:** Gross income shall not include any sales or excise taxes payable by the Lessee to federal, state, county, or municipal governments as a direct result of operations under this Lease, provided that these taxes are clearly segregated and identified in the Lessee's books and records. Checks, credit card payments returned for insufficient funds or account closures, and credit card fees may also be deducted from gross income provided that these items are clearly segregated and identified in Lessee's books and records.
- (3) **Allowable Reductions to Gross Sales:** Gross sales may be reduced by returns and allowances on the theory that these "sales" were never made, and should not have been included as part of the gross sales, but gross income shall not be reduced by any other amount.
- (4) **Cash:** Cash includes currency, coin, checks, and money orders.
- (5) **Credit:** Credit includes credit card transactions and those transactions made on open account or for any oral or written promise to pay.
- (6) **Operator for Purposes of this Lease:** Operator shall refer both individually and collectively to Lessee, its sublessees, contractors, and concessionaires conducting activities on or over the Lease Premises.

2. **REPORT OF ANNUAL GROSS INCOME:**

Lessee shall submit a Report of Annual Income Form, as shown in Exhibit A (for Years 1-10) for each lease year for the gross rent by Lessee derived from upland facilities. Beginning in Year 11 each report shall include, but not be limited to:

- A. Gross income from any operations and/or activities authorized under this Lease conducted from, on, or over the Lease Premises;
- B. Gross income from the rental of any berth, slip, side tie, or end tie;
- C. Gross income from any water-oriented operations and activities not authorized under this Lease conducted on or over the Lease Premises;
- D. The gross income received by Lessee, its Operators, sublessees, contractors, concessionaires, and all others generating income shall be reported separately so that Lessor will be able to identify the source of all gross income generated from, on, or over the Lease Premises.

The Report of Annual Income Form shall be accompanied by an Income Statement and Balance Sheet with supporting documentation regarding Lessee's and/or Operator's operations on the Lease Premises and under this Lease for the prescribed reporting period which is a calendar year from January 1 through December 31. These reports are due on April 25 of each year beginning April 25, 2011 and will cover operations and activities from the prior reporting period. Lessor may elect to provide for the Report of Annual Income Form, as shown on the attached Exhibit A. However, Lessor's failure to do so shall not relieve Lessee of its obligations to submit the Report of Annual Income Form. The first year report shall cover operations from February 1, 2010 to December 31, 2010, and thence on a calendar year.

3. BOOKS AND RECORDS:

- A. Lessee and/or Operator shall maintain books and records of all financial transactions relating to the Leased Premises in accordance with generally accepted accounting principles. These records shall be supported by source documents such as agreements with renters, copies of invoices, receipts, and other pertinent documents. If requested by the State, *to the extent necessary*, the Lessee shall allow representatives of the California State Lands Commission to examine copies of those portions of Lessee's Federal and State Income Tax Returns, and Board of Equalization Tax Returns, relating to activities conducted on the Lease Premises in order to corroborate information shown on reports to the California State Lands Commission.
- B. All Report of Annual Income Forms submitted to the Lessor are subject to audit and revision by Lessor and Lessor may inspect all of Lessee's and/or Operator's books, records, and documents relating to the operation of the Lease Premises at all reasonable times *and within reasonable notice*. Any statutory or other rights that the Lessee may have to object to such inspection by the California State Lands Commission are hereby waived.

4. FINAL RENTAL PAYMENTS AND REPORT OF ANNUAL INCOME FORM:

Within 60 days of the expiration or earlier termination of this Lease, Lessee shall submit to Lessor any rentals due in excess of the Minimum Annual Rental specified in Section 2, Paragraph 1 (A). Simultaneously, Lessee shall also submit its final Report of Annual Income Form required in Section 2, Paragraph 2.

5. MARINA SUBLETTING:

Section 4, Paragraph 10 is amended by adding the following subparagraphs:

- (i) Lessee's sublessee may issue, without Lessor's prior approval, individual berthing agreements in conjunction with normal commercial marina subleasing practices for terms of one (1) year or less.
- (j) At the time of the filing of its Report of Annual Income Form, Lessee shall provide Lessor with a summary report of berthing activities, including, but not limited to, the number of berthing agreements in effect on the date of the report, the number of new berthing agreements since the date of the last report, and the number of subleases terminated since the last report. This activity summary shall include monthly berth rates and assigned slip numbers.
- (k) Individual Berthing Agreements shall not be transferable and shall convey no greater rights to a specific berth than the rights set forth in the sublease agreement and shall be subject to all Lease conditions, restrictions, and covenants, including, but not limited to, the prohibition of liveaboard use.
- (l) Except as authorized under (i), (j), and (k) herein, relating to berthing agreements for individual berthing or mooring, Lessee may sublet only with the prior written consent of Lessor and only for public trust purposes of water-related commerce, navigation, fisheries, recreations and open space, except as otherwise approved by Lessor.

6. BEST MANAGEMENT PRACTICES:

- A. Lessee agrees to implement the "Best Management Practices for Marina Owners/Operators" contained in Exhibit B to this Lease, and by this reference made a part hereof. Lessor reserves the right to require that additional BMPs be implemented as technology changes, if existing BMPs are not being followed, and/or existing BMPs are found to be ineffective.
- B. Incorporation of the "Best Management Practices for Berth Holders and Boaters" as contained in Exhibit "C" to this lease, and as may be amended from time to time by Lessor. In addition, Lessee shall encourage Best Management Practices (BMPs) by its Tenants by posting such publication in a prominent place within the lease premises.
- C. Lessee shall, on the first anniversary of the Lease and on every third anniversary of the Lease thereafter, provide Lessor a report on compliance with the Best Management Practices that are contained in Exhibits B and C to this Lease.

7. MISCELLANEOUS PROVISIONS:

In addition to the provisions of Paragraph 4(c) of Section 4, Lessee shall incorporate the following provisions into its berth and/or mooring rental agreements entered into after the Effective Date of this Lease:

- A. A statement concerning the importance that berth holders maintain their boats in a safe operating condition and the inclusion of suitable restrictions on maintenance activities performed at the marina by berth holders, specifically the prohibitions against any bottom paint application or removal and engine and hull washing;

- B. A statement that boat engines shall be in compliance with all applicable pollution control measures and the berth holders shall exercise their best efforts to reduce individual and collective contributions to air pollution; and
- C. All net revenue generated by the City on the lease premises once loan and operation obligations are met shall be reinvested by the City into the lease premises, its amenities, structures and capital maintenance needs including but not limited to maintaining reserves for regular maintenance dredging, repair and replacement of capital cost structures such as lights, dock renovation, electrical upgrades and other current and future infrastructure maintenance and improvements needs of the marina and upland areas covered by this lease.

8. CONSERVATION:

Paragraph 4(e) in Section 4 is deleted and replaced with the following:

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

9. TOXICS:

Section 4, Paragraph 4(f) is deleted and replaced with the following:

- (f)(1) Lessee shall comply with and be bound by all applicable provisions of federal, state or local law, regulation or ordinance dealing with hazardous wastes, toxic substances or similar materials. Lessee shall be fully responsible for any hazardous wastes, toxic materials or similar materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported on the Lease Premises during the Lease term. In the event of a spill or other release of any such hazardous wastes, toxic materials or similar materials, Lessee shall notify Lessor and the appropriate governmental emergency response agency (ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.
- (f)(2) Lessee shall not manufacture or generate hazardous wastes, toxic substances or similar material on the Lease Premises unless specifically authorized under other terms of this Lease.
- (f)(3) Lessor may at any time during the Lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or inspection for the presence or suspected presence of hazardous wastes, substances or materials as defined under federal, state or local law, regulation or ordinance manufactured, generated, used placed, disposed, stored or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency (ies) and shall further be responsible for removing or taking other appropriate remedial

action regarding such wastes, substances or materials in accordance with applicable federal, state or local law regulation or ordinance.

10. INSURANCE:

Section 4, Paragraph 8 is amended to read as follows:

Lessor and Lessee agree that Lessee may satisfy the requirements of Section 1 "Insurance" and Section 4, Paragraph 8 "Insurance" by providing Lessor of evidence of its self insurance program being applicable to its activities and improvements authorized by this Lease on the condition that:

- A. Lessor's staff is satisfied that the self-insurance program adopted and maintained provides coverage equivalent to coverage required under Section 1 and Section 4, Paragraph 8;
- B. For any line of self-insurance that is regulated by the State, Lessee shall provide documentation demonstrating qualification and compliance with all applicable rules and regulations, including self-insurance certification;
- C. Each year of the Lease, no later than the anniversary date of this Lease, Lessee shall provide Lessor's staff with any and all evidence that each self-insurance program is maintained; and
- D. Should Lessee elect to terminate all or any line or lines of self-insurance, Lessee shall, at least 60 days prior to such termination, provide Lessor with written notice of such termination, accompanied by written evidence of new insurance coverage required by Section 1 and Section 4, Paragraph 8.

11. BONDS:

Section 4, Paragraph 9(b) is amended to read as follows:

(b) Lessor may require an increase in the amount of the surety bond or other equivalent security device as approved by Lessor to cover any additional authorized improvements, alterations, changes to authorized use, or modification of consideration at the time of those changes, and economic inflation on the initial or any succeeding fifth (5th) anniversary of this Lease. Should Lessor fail to exercise its right to increase the amount of the bond or other security on any fifth anniversary, it may do so effective on any one of the next four anniversaries following such fifth anniversary without prejudice to its right to effect an increase on the next or any succeeding fifth anniversary.

12. CONSTRUCTION:

- A. Construction Performance Bond: Prior to the start of construction, Lessee shall provide to Lessor a non-cancellable construction performance bond, letter of credit or equivalent security device as approved by Lessor in the amount of \$1,500,000 to guarantee the completion of the authorized construction on the Lease Premises. In the event the construction project on the Lease Premises is not completed or put into service, Lessee will remove the facilities and restore the property to its original condition.
- B. 60 days prior to commencement of any construction activities, Lessee shall provide to Lessor a construction schedule time line chart showing all significant work activities

that will take place during the course of the project. Additionally, Lessee shall submit, for Lessor's review and comment, a copy of the construction contractor's work execution plan that provides the details of the manpower, equipment, construction methods and procedures to be employed for each significant activity, safety procedures, etc.

- C. Not later than 30 days prior to commencing work vessel operations, Lessee shall provide Lessor with a copy of the Critical Operations and Curtailment Plan for the work vessels operating in State waters. If a work vessel other than the vessel identified in the Critical Operations and Curtailment Plan is used, a Critical Operations and Curtailment Plan for that vessel shall be provided to Lessor. The plan is to define the limiting conditions of nautical state, wind, or any other weather conditions that exceed the safe operations of offshore vessels and equipment of divers in the water, that hinder potential spill cleanup or in any pose a threat to personnel or the safety of the environment. The plan needs to provide for a minimum ongoing five (5) day advance favorable weather forecast during offshore operations. The plan also needs to identify the onsite person with authority to determine critical conditions and suspend the work operations when needed.
- D. At least two weeks prior to commencement of construction activities, Lessee shall file an advisory of pending construction operations with the local U.S. Coast Guard District office for publication in the Local Notice to Mariners. Lessee shall provide Lessor a copy of the Notice to Mariners.
- E. Lessee shall provide a 15-day advance notice to Lessor prior to commencement of construction of the authorized improvements.
- F. Prior to the start of construction, Lessee shall provide evidence to Lessor of Lessee having obtained all permits from those agencies having jurisdiction over the proposed project.
- G. Prior to the start of construction on the Lease Premises, Lessee shall provide a copy of the contractor's Hazardous Spill Contingency Plan (Plan) with specific designation of the onsite person who will have responsibility for implementing the Plan. This plan will include discussion of various major and minor spill scenarios, spill cleanup materials and equipment available onsite, a spill notification protocol and procedures, and a list of various agencies and their notification numbers. In the event of an oil spill during construction that impacts State water, notification is to be made as soon as possible to the State Office of Emergency Services at (800) 852-7550 and to the Lessor's 24-hour emergency response number at (562) 590-5201. All other spills shall be reported as specified in the Plan.
- H. Lessee shall maintain a logbook on all work vessels during work within the Lease Premises utilized in operations conducted under this Lease to keep track of all debris created by objects of any kind that may fall into the water. The logbook should include the type of debris, date, time, and location to facilitate identification and location of debris for recovery and site clearance verification. All debris shall be promptly removed from the Lease Premises.

- I. All personal property, tools, or equipment taken onto or placed upon the Lease Premises shall remain the property of the Lessee or its contractors. Such personal property shall be promptly removed by the Lessee, at its sole risk and expense upon the completion of the project. Lessor does not accept any responsibility for any damage, including damages to any personal property, including any equipment, tools, or machinery on the Lease Premises.
- J. Within 60 days of completion of the authorized improvements, the Lessee shall submit to Lessor one set of final construction "as-built drawings" to verify that the improvements are constructed as authorized and photographs of the completed project.

13. REFUSE CONTAINERS:

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

14. PLASTICS:

- A. Lessee shall not provide for sale, or allow other parties to provide, any prepared food in polystyrene foam containers or packaging, nor shall Lessee, or other parties keep on the lease premises any polystyrene foam containers or packaging of a type, design, and condition appropriate to the preparation of food for consumption on or off the lease premises.
- B. All packaging for prepared food that is consumed on or off the premises, or for takeout service, shall be degradable. Lessee shall provide, upon demand, copies of paid invoices that verify the purchase of degradable containers in quantities sufficient to validate Lessee's compliance with this provision.
- C. For purposes of this Lease, the following definitions are applicable:
 - (1) "Prepared food" means foods or beverages which are prepared on the lease premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed.
 - (2) "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays cartons, cups, straws and lids which are not intended for reuse on or in which any foods or beverages are placed or packaged on the Lease premises.
 - (3) "Takeout food" means prepared foods or beverages requiring no preparation to be consumed and which are purchased in order to be consumed off the lease premises.

- (4) "Polystyrene foam" means any styrene or vinyl chloride polymer that is blown into a foam-like material, an example of which is marketed under the trade name "Styrofoam".
- (5) "Degradable food packaging" means food packaging which within two years substantially reduces to its constituent substances through degradation processes initiated by natural organisms whose end products are substantially, but not necessarily entirely, carbon dioxide and water. Degradable food packaging does not include cellulose-based items that have a synthetic or plastic coating comprising more than 5% of the total volume of the item.

D. The above conditions shall be in effect until such time as the California State Lands Commission adopts regulations and/or policies on the subject of plastic pollution. To the extent that such policies or regulations differ from the foregoing provisions and definitions, the parties hereby agree that the lease will be amended to incorporate the policies adopted by the California State Lands Commission.

15. PETROLEUM PRODUCTS HANDLING:

The draining or dumping of petroleum products is prohibited. Lessee shall post notices and provide for enforcement against the draining or dumping of petroleum products, on or where it will enter the Lease Premises.

16. FUEL SPILL PREVENTION AND CLEANUP PLAN:

- A. Lessee shall maintain fuel containment equipment, i.e., containment booms and absorbent materials, for use in the case of an accident and instruct each berth holder on how to use said equipment.
- B. Lessee shall notify and caution berth holders and employees on small scale fueling procedures and the importance of avoiding spills.
- C. Lessee shall provide Lessor with Spill Contingency Plan for approval before fuel dock is operational.

17. DREDGING:

- A. Lessee is authorized to dredge and remove during marina construction a maximum of 274,800 cubic yards of Dredged Material from the Lease Premises. Dredging shall be limited by specific time restraints and other conditions as imposed by regulatory agencies having jurisdiction regarding this matter.
- B. Upon completion of the marina construction and dredging, Lessee is authorized to perform maintenance dredging. Dredging shall be limited by specific time restraints and other conditions as imposed by regulatory agencies having jurisdiction regarding this matter. Lessee shall obtain and provide Lessor with copies of all permits necessary for maintenance dredging.
- C. Lessee is authorized to dispose of the Dredged Material at any U.S. Environmental Protection Agency approved ocean and/or San Francisco Bay disposal sites, or at any onshore disposal site fully authorized by all governmental entities having jurisdiction. Lessee shall provide copies of said approvals to Lessor prior to any dredging.

- D. No royalty shall be paid for dredged material placed at approved disposal sites and which is used for public benefit. The dredged material may not be sold.

18. LEASE PREMISES OPERATION AND MANAGEMENT:

- A. Within 10 days of the execution of the Lease, Lessee will submit to Lessor copies of all final leases or operator agreements entered into between the Lessee and others located on the Lease Premises.
- B. Lessee shall not assign or transfer the operation or management of facilities on the Lease Premises without the Lessor's reasonable prior approval, which consent shall not be unreasonably withheld.
- C. Lessee shall provide Lessor with a Certificate of Liability Insurance in the amount of not less than \$5,000,000 from all marina operators, sublessees and concessionaires doing more than \$500,000 in business annually and \$2,000,000 for marina operators, sublessees and concessionaires doing less than \$500,000 in business annually with the State of California, State Lands Commission, its officers, agents and employees named as additional insured on the certificate of coverage. All operators, sublessees and concessionaires shall comply with Section 4, Paragraph 8 regarding insurance.
- D. Lessee may designate navigable vessels no more than 7 to be used as security vessels for the sole purpose of providing 24-hour marina security. The designated vessels shall be located in strategically designated slips and shall be required to leave the Lease Premises at least once, for a minimum of six hours, each 90-day period. Lessee shall submit to Lessor an annual report covering the security activities for the year, which shall include the name, slip number, and vessel identification number of the designated security vessels; a summary of the incidents for the year pursuant to the duty statement; and a log with the scheduled security vessel departure and return to the marina each 90-day period. The report shall be due on April 25th of each year beginning April 25, 2011 and cover liveaboard activities from the prior lease year.

19. ENCUMBRANCING OF LEASE:

In a separate document entitled Agreement and Consent to Encumbrancing of Lease, effective upon execution by all parties, Lessor has agreed to the encumbrancing of this Lease by a deed of trust and/or its assignment to the California Department of Boating and Waterways, which is the Secured Party Lender under loan agreement with Lessee. Notwithstanding any other provision of this Lease, Lessee agrees not to amend, modify, replace, terminate or surrender the Lease through the mutual assent of Lessor or otherwise without first having obtained the written consent of the Secured Party Lender. Lessor shall not unreasonably withhold its consent.

20. TERMINATION OF EXISTING LEASE:

Execution of this Lease by the parties hereto will terminate existing Lease No. PRC 3194.1, which would have expired on October 26, 2013. All improvements previously authorized under such Lease are now subject to the terms, provisions, and conditions of this Lease.

In the event of a conflict between the terms of the Basic Provisions (Section 1) or the Special Provisions (Section 2) and the General Provisions (Section 4), the terms of the Basic Provisions and the Special Provisions shall control.

SECTION 3

PRC 3194

A parcel of submerged land as it existed in a state of nature in Carquinez Strait, lying northerly of the City of Martinez, Contra Costa County, California, said parcel being more particularly described as follows:

COMMENCING at the intersection of the north line of Tideland Survey No. 9 and the east line of North Court Street as shown on Map of "City of Martinez Waterfront Area" filed March 10, 1955, in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the Office of the Contra Costa County Recorder; thence S 20° 03' 30" E 240.00 feet to the POINT OF BEGINNING; thence S 69° 56' 30" W 50.00 feet to the centerline of North Court Street; thence N 20° 03' 30" W 630.00 feet along the centerline of North Court Street; thence leaving said centerline N 63° 05' 00" W 410.36 feet; thence N 20° 03' 30" W 530.00 feet; thence N 17° 02' 14" E 272.81 feet; thence N 16° 00' 00" W 380.00 feet; thence S 79° 47' 48" W 300.00 feet; thence N 10° 12' 12" W 200.00 feet; thence N 79° 47' 48" E 380.00 feet; thence N 69° 56' 30" E 810.00 feet; thence S 81° 03' 30" E 710.00 feet; thence S 07° 00' 00" W 900.00 feet; thence S 05° 05' 39" E 119.71 feet; thence S 12° 10' 00" W 660.00 feet, thence S 03° 30' 00" W 110.00 feet; thence S 63° 50' 00" W 85.00 feet; thence S 20° 03' 30" E 130.00 feet to the intersection with the northerly line of Tideland Survey No. 9; thence along said northerly line S 76° 56' 53" W 35.00 feet; thence leaving said northerly line S 20° 03' 30" E 184.70 feet; thence S 69° 56' 30" W 450.00 feet to the point of beginning.

Bearings and distances used in the above description are based upon the California Coordinate System, Zone 3 as shown on "Map of Martinez Waterfront Area" filed March 10, 1955, in Volume 16, Pages 39 to 43, Licensed Surveyors Maps in the office of the Contra Costa Recorder.

Prepared *M. J. [Signature]* END OF DESCRIPTION
 Checked *John K. [Signature]*
 Reviewed *A. P. [Signature]* Date 12/2/76

SECTION 4

GENERAL PROVISIONS

1. GENERAL

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

2. CONSIDERATION

(a) Categories

(1) Rental

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

(2) Non-Monetary Consideration

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

(b) Modification

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

(c) Penalty and Interest

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

3. BOUNDARIES

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

4. LAND USE

(a) General

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

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

(b) Continuous Use

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

(c) Repairs and Maintenance

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

(d) Additions, Alterations, and Removal

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

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

(e) Conservation

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

(f) Toxics

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

(g) Enjoyment

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

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

(h) Discrimination

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

(i) Residential Use

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

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

(a) Reservations

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

(b) Encumbrances

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

6. RULES, REGULATIONS, AND TAXES

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

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

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

7. INDEMNITY

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

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

8. INSURANCE

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

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

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

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

9. SURETY BOND

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

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

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

10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING

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

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

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

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

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

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

(1) Give prior written notice to Lessor;

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

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

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

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

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

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

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

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

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

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

11. DEFAULT AND REMEDIES

(a) Default

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

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

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

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

(c) Remedies

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

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

12. RESTORATION OF LEASE PREMISES

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

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

STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 8865.1

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

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

LESSEE:

CITY OF MARTINEZ

LESSOR:

**STATE OF CALIFORNIA
STATE LANDS COMMISSION**

By: _____
Title: _____
Date: _____

ACKNOWLEDGEMENT

This Lease was authorized by the
California State Lands Commission on

February 1, 2010
(Month Day Year)

EXHIBIT B

BEST MANAGEMENT PRACTICES FOR MARINA OWNERS / OPERATORS

Petroleum Management

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

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

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

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

Hazardous Wastes

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

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

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

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

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

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

Emergencies

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

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

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

Underwater Boat Hull Cleaning

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

Boat Sewage Discharge

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

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

Make the pump out station user friendly.

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

Provide educational information about the pump out station to boaters.

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

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

Solid Waste

Keep litter picked up.

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

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

Keep trash enclosures clean and free of debris.

Keep cleanup equipment and materials available.

Inspect trash storage areas regularly.

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

Liquid Waste

Train marina employees in oil spill response procedures.

Keep adequate spill response equipment and materials in strategic locations.

Storm Water Runoff

Maintain a Storm Water Pollution Prevention Plan.

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

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

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

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

Reduce or eliminate landscaping and irrigation runoff into the waterway.

EXHIBIT C

BEST MANAGEMENT PRACTICES FOR BERTH HOLDERS / BOATERS

Bilge Water Management

Keep bilge area as dry as possible

Regularly check fittings, fluid lines, engine seals, and gaskets

Fix all oil and fuel leaks in a timely manner

Do not drain oil into the bilge

Fit a drain pan, if feasible, underneath the engine to collect drips and leaks

Consider the use oil-absorbent pads, even in small boats.

If a bilge contains oil, absorb as much free oil as possible with a pad. Then pump the bilge dry and wipe down the bilge and equipment. If a bilge is severely contaminated, use a pump out service. Never pull the drain plug on a boat with a bilge full of oil, especially if it is on a launch ramp.

Dispose of oil-soaked absorbents at a proper facility. Check with the marina operator for guidance.

Do not use detergents or bilge cleaners unless the bilge can be pumped into an appropriate facility.

Petroleum Containment

Fill portable fuel containers on land or on the fuel dock to reduce the chance of fuel spills into the water.

Avoid overfilling fuel tanks and attend the fuel nozzle at all times.

Perform all major engine maintenance away from surface water. Any maintenance work on an engine must be done in compliance with rules and regulations governing the marina.

Use petroleum absorption pads while fueling to catch splash back and the any drops when the nozzle is transferred back from the boat to the fuel dock.

Keep engines properly maintained for efficient fuel consumption, clean exhaust, and fuel economy. Follow all manufacturers' specifications.

Immediately report oil and fuel spills to the marina office and the U.S. Coast Guard National Response Center (Phone # 1 (800) 424-8802) and other appropriate agencies.

Hazardous Materials

Improper handling of hazardous materials can cause harm to human health and the environment and can result in serious penalties and expensive cleanup costs if contaminations occur.

Hazardous wastes generated by recreational boaters are considered household hazardous waste. Dispose of household hazardous waste in properly marked containers if provided by the marina or at the nearest appropriate site.

Vessel Sewage

Boaters should never pump out any holding tank in waters inside the three nautical mile limit. Always remember that it is illegal to discharge raw sewage from a vessel into U.S. waters.

Pumpout facilities should be used to dispose of stored waste whenever possible. They are fast, clean, and inexpensive.

Marine sanitation devices (MSDs) must be maintained to operate properly. Keep your disinfectant tank full, use biodegradable treatment chemicals, and follow the manufacturer's suggested maintenance program.

Do not dispose of fats, solvents, oils, emulsifiers, disinfectants, paints, poisons, phosphates, diapers, and other similar products in MSDs.

Whenever possible, use land-based rest rooms rather than onboard ones.

Vessel Cleaning and Maintenance

Ask your marina manager what types of maintenance projects are allowed in the slip.

Minimize the use of soaps and detergents by washing your vessel more frequently with plain water.

Do not use cleaners that contain ingredients such as ammonia, sodium, chlorinated solvents, or lye.

Use hose nozzles that shut off when released to conserve water and reduce the runoff from boat washing.

Ventilate your space to prevent the accumulation of flammable or noxious fumes.

Use eye protection and a respirator when there is the possibility that dust and debris could damage eyes or lungs.

Remove oil, debris and clutter from your immediate work area and dispose of properly.

Avoid spills in the water of all solvents, paints and varnishes.

Carefully read labels to ensure the products are used in a manner that is safe and won't harm the environment.

Use teak cleaners sparingly and avoid spilling them or fiberglass polishers in the water.

Sanding and Painting

When working in marinas, use designated sanding and painting areas. Check with the marina manager for the location and proper use of these areas.

Work indoors or under cover whenever wind can potentially blow dust and paint into the open air.

Where feasible, use environmentally friendly tools, such as vacuum sanders and grinders, to collect and trap dust. Some marinas have this equipment for rent, check with the manager.

Clean up all debris, trash, sanding dust, and paint chips immediately following any maintenance or repair activity.

Use a drop cloth beneath the hull to catch sanding dust and paint drops when working over unpaved surfaces.

When sanding or grinding hulls over a paved surface, vacuuming or sweeping loose paint particles is the preferred cleanup method. Do not hose the debris away.

Buy paints, varnishes, solvents, and thinners in sizes appropriate for the proposed work to avoid having to dispose of stale products.

When possible, use water-based paints and solvents.

Switch to longer lasting, harder, or non-toxic antifouling paint at your next haul out.

Paints, solvents, and reducers should be mixed far from the water's edge and transferred to work areas in tightly covered containers of 1 gallon or less.

Keep in mind that solvents and thinners may be used more than once by allowing the solids to settle out and draining the clean product off the top.

When in doubt about proper disposal practices, check with your marina and/or appropriate government agency.

Boaters should report any illegal discharge of boat sewage to the marina office or appropriate agency.

Boaters should use environmentally sensitive cleaning supplies that may end up in your gray water.

Boat Hull Cleaning and Maintenance

Ensure hull paint is properly applied and maintained to protect the hull from fouling organisms and thus improve your boat's performance.

Wait 90 days after applying new bottom paint before underwater cleaning.

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 will also increase the effectiveness of the antifouling hull paint and extend its useful life.

Repair paint bonding problems at haul out to avoid further chipping and flaking of paint in the water.

Use, or ask your diver to use, non-abrasive scrubbing agents, soft sponges or pieces of carpet to reduce the sloughing of paint and debris.

Boaters are encouraged to use boat hull cleaning companies and individuals that practice environmentally friendly methods.

Solid Waste

Do not dump plastic or any other trash into the water.

Use the dumpsters, trash receptacles and other approved containers to dispose of garbage and other waste.