CITY OF SAN DIEGO
USE AND OCCUPANCY PERMIT

THIS CITY OF SAN DIEGO USE AND OCCUPANCY PERMIT ("Permit") is entered into by and between **THE CITY OF SAN DIEGO**, a California municipal corporation ("CITY"), and SAN DIEGO CANOE AND KAYAK TEAM, a California non-profit 501 (c) (3) corporation ("PERMITTEE"), to be effective on the first day of the first month following the date of execution of this Permit by CITY (the "Effective Date"), and approved by the San Diego City Attorney.

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

1. Definitions. As used in this Permit, the following terms shall be defined as follows:

1.1 **"Monthly Rent"** shall mean monetary consideration to CITY as follows:

1.1.1	Effective Date though June 30, 2014	$328 per month;
1.1.2	July 1, 2014 through June 30, 2015	Rent adjustment, per Section 13
1.1.3	July 1, 2015 through June 30, 2016	Rent adjustment, per Section 13

1.2 **"Permit Area"** shall mean certain CITY-owned real property consisting of approximately 6,335 square feet that is a portion of CITY-owned property on Fiesta Island in Mission Bay Park adjacent to that certain Boy Scouts of America leasehold, more particularly described in **Exhibit A: Permit Area**, attached hereto.

1.3 **"Equipment"** shall mean boats, water vessels, trailers, storage containers and sheds, and related items stored by PERMITTEE in the Permit Area more particularly described in **Exhibit B**, incorporated herein by this reference.

1.4 **"Permit Fee"** shall mean a one-time, non-refundable permit processing fee in the amount of Seven Hundred Twenty Seven Dollars ($727).

1.5 **"Security Deposit"** shall mean an amount equal to One Thousand Dollars ($1,000).

1.6 **"Permit Use"** shall mean the use of the Permit Area solely for the purposes of storing and having access to the Equipment in the Permit Area.

1.7 **"PERMITTEE's Address for Notices"** shall be: San Diego Canoe and Kayak Team
4131 Raffee Drive
San Diego, CA 92117

1.8 **"Term"** shall mean one (1) year, commencing on the Effective Date.

2. Occupancy. Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE and its officers, employees, agents and contractors to enter upon and occupy the Permit Area solely for the Permit Use.

3. Use of Permit Area. PERMITTEE may use the Permit Area solely for the Permit Use and for no other purpose whatsoever without CITY's written consent in each instance. PERMITTEE shall continuously occupy and use the Permit Area throughout the Term.

4. Governmental Approvals. By entering into this Permit, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.

5. CITY's Consent, Discretion. CITY's consent or approval under this Permit shall mean the written consent or approval of CITY's Mayor, or his or her designee ("Mayor"), unless otherwise expressly provided herein or required by law. CITY's discretionary acts hereunder shall be made in the Mayor's discretion, unless otherwise expressly provided or required by law.

6. Term. If at the end of the initial one (1) year term Permittee is not then in breach or default of any of its obligations under this Permit, then upon PERMITTE's written request, the Term will be renewed for up to two (2) additional one-year periods. To exercise its option to renew this Permit for each additional one-year period, PERMITTEE shall separately, for each additional period, provide CITY with advance written notice of PERMITTEE's intent to renew. Such notice shall be provided no later than sixty days (60) prior to expiration of the Term; however, the Term shall not exceed three (3) years unless authorized by the San Diego City Council. Failure to exercise an option to renew after the initial Term shall forfeit all option(s) to renew for any successive additional renewal periods.

7. Revocable License. This Permit is not a lease. It is a license to use CITY property, and may be revoked at will by CITY, in its sole discretion, upon three (3) days prior written notice delivered to PERMITTEE. CITY shall not be obligated for any burden or loss, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation or the termination of this Permit.

   7.1 PERMITTEE's Waiver. PERMITTEE expressly waives any claim against CITY and its elected officials, officers, employees, representatives and agents for any burden, expense or loss which PERMITTEE incurs as a result of CITY's revocation or termination of this Permit.

8. No Holdover. If PERMITTEE continues to occupy the Permit Area after the expiration or earlier termination of this Permit, such occupancy shall neither constitute a renewal or extension of this Permit, nor give PERMITTEE any rights in or to the Permit Area. If PERMITTEE continues to occupy the Permit Area after the expiration or earlier

termination of this Permit, CITY may demand and receive from PERMITTEE rent for the Permit Area calculated on a per diem basis using up to two (2) times the fair market rental rate to be determined as of the date of the expiration or termination of this Permit by an appraisal prepared by a qualified appraiser selected by CITY in its sole discretion. CITY's acceptance of such rent shall neither constitute a renewal or extension of the license, nor give PERMITTEE any rights in or to the Permit Area.

9. Termination. PERMITTEE may terminate this Permit for any reason upon thirty (30) days prior written notice delivered to CITY.

10. Restoration of Permit Area. Except as otherwise provided in this Permit, prior to the expiration or as soon as practicable after termination of this Permit, PERMITTEE shall restore the Permit Area to its condition on the Effective Date, normal wear and tear excepted.

11. Superior Interests. This Permit is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements and rights-of-way pertaining to the Permit Area, whether or not of record. PERMITTEE shall obtain all licenses, permits and agreements from such third parties as may be or become necessary or reasonably advisable to allow its use of the Permit Area, relative to any such superior interest. If PERMITTEE's use of the Permit Area is or becomes inconsistent or incompatible with a preexisting, superior interest, PERMITTEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.

12. Permit Fee. PERMITTEE shall pay the Permit Fee to CITY upon execution of this Permit.

13. Rent. PERMITTEE shall pay the Monthly Rent in advance on the first day of each month during the Term. Pursuant to Council Policy No. 700-08 ("Mission Bay Park Policies"), the rent for non-profit organizations in Mission Bay Park shall be reviewed annually and shall be thirty-three and one-third (33 1/3) percent of the average total annual commercial square foot rent paid for leases in Mission Bay Park attributing the rent to the total land and water areas under lease. At the commencement of each fiscal year (i.e., July 1, 2014; July 1, 2015; and so-on), the Monthly Rent shall be adjusted using this formula based on the actual total annual commercial rent from Mission Bay Park paid to the CITY during the immediately preceding fiscal year (July1 through June 30).

14. Invoicing Courtesy. CITY may invoice PERMITTEE for amounts payable under this Permit. However, any such invoicing shall be deemed a courtesy only; PERMITTEE shall make all payments under this Permit on or before each applicable due date, regardless of being invoiced. No grace period shall apply to any amount payable under this Permit.

15. Place of Payment. All payments to be paid by PERMITTEE under this Permit shall be made payable to "City Treasurer" and be mailed to:

San Diego City Treasurer
P.O. Box 129030
San Diego, California 92112-9030

or hand delivered to:

The Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue, First Floor
San Diego, California 92101

CITY may change the place of payment at any time upon thirty (30) days written notice to PERMITTEE. Mailed payments shall be deemed paid upon the date the payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed received only upon actual receipt.

16. Delinquent Payments. If PERMITTEE fails to make any payment under this Permit when due, PERMITTEE shall pay to CITY, in addition to the unpaid amount, five percent (5%) of the unpaid amount, which shall be additional rent. If any amount of such payment remains unpaid after fifteen (15) days past due, PERMITTEE shall pay to CITY an additional five percent (5%) of the unpaid amount [being a total of ten percent (10%)], which shall be additional rent. Notwithstanding the foregoing, in no event shall the charge for late payment of rent be less than Twenty-Five Dollars ($25). After thirty (30) days past due, unpaid amounts due CITY under this Permit may be referred to the San Diego City Treasurer for collection, and shall be subject to San Diego Municipal Code section 22.1707, as may be amended from time to time. PERMITTEE shall pay to CITY any collection-referral fee and all other fees and charges plus interest as may then be charged by the CITY's City Treasurer under authority of the San Diego Municipal Code. Acceptance of late charges and any portion of the late payment by CITY shall neither constitute a waiver of PERMITTEE's breach or default with respect to the late payment nor prevent CITY from exercising any other rights and remedies available at law or in equity. As required by law, PERMITTEE is hereby notified that a negative credit report may be submitted to a credit reporting agency if amounts due CITY are not paid when due.

17. Security Deposit. Upon execution of this Permit, PERMITTEE shall deliver the Security Deposit to CITY as security for the performance of PERMITTEE's obligations under this Permit. CITY shall not be liable to PERMITTEE for any interest thereon. Any interest earned from such deposit or redeposit shall not become part of the security deposit, but shall be and remain the property of CITY. All or any portion of the security deposit shall be available unconditionally to CITY to cure, in whole or in part, any breach or default of this Permit by PERMITTEE, or for expenses incurred by CITY as a result of PERMITTEE's breach or default of this Permit. PERMITTEE shall maintain, and if necessary replenish, the Security Deposit throughout the Term. Notwithstanding any other provision of this Permit to the contrary, if PERMITTEE fails or refuses to deposit or maintain the Security Deposit as required by this Permit, CITY may terminate this Permit immediately upon such breach. Upon such termination, PERMITTEE shall immediately cease its use of the Permit

Area and commence and diligently pursue the removal of its property from the Permit Area.

17.1 Utilization. If CITY utilizes all or any portion of the Security Deposit, then upon ten (10) days prior written notice, PERMITTEE shall reimburse the Security Deposit to the full required amount.

17.2 Increase. Upon thirty (30) days prior written notice by CITY, PERMITTEE shall deliver to CITY such additional funds as CITY may reasonably require as additional Security Deposit to adequately secure PERMITTEE's obligations under this Permit.

17.3 Return. Provided PERMITTEE is not in breach or default of this Permit, CITY shall return the Security Deposit, or any balance thereof, to PERMITTEE within sixty (60) days after the expiration or termination of this Permit.

18. Maintenance of the Permit Area. PERMITTEE shall, at PERMITTEE's sole cost and expense and to CITY's satisfaction, maintain the Permit Area in good order and repair and in a safe, healthy and sanitary condition at all times during the Term. CITY shall not be required to make any improvements or repairs to the Permit Area, including the perimeter fence and gate to the Permit Area. PERMITTEE shall keep the Permit Area free and clear of rubbish, debris and litter at all times. PERMITTEE shall keep the Permit Area free and clear of weeds and brush as reasonably directed by CITY and to CITY's reasonable satisfaction.

19. Inspection. CITY may at all times enter and inspect the Permit Area.

20. Utilities. PERMITTEE shall order, obtain and pay for all utilities and service and installation charges in connection with its use of the Permit Area.

21. Improvements/Alterations. PERMITTEE shall not construct any improvements, structures or installations on the Permit Area, and shall not alter the Permit Area without the express written consent of CITY. Except as required by law, CITY shall not be obligated to make any repair or assume any expense for any improvements or alterations to the Permit Area.

22. Improvements and Personal Property.

22.1 Improvements. Upon expiration or termination of this Permit, PERMITTEE shall remove any and all improvements, fixtures, structures and installations or additions to the Permit Area that were constructed or installed on the Permit Area by PERMITTEE ("PERMITTEE Improvements"). PERMITTEE shall, at PERMITTEE's sole cost and expense, remove PERMITTEE Improvements as soon as practicable, but in no event later than sixty (60) days after the expiration or earlier termination of this Permit. PERMITTEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of PERMITTEE Improvements as required by this Permit. If PERMITTEE fails to

remove PERMITTEE Improvements as required, CITY may, at its option, remove them at PERMITTEE's sole cost and expense. Notwithstanding the foregoing, CITY may, upon notice to PERMITTEE at termination or at any time prior to the expiration of the Term, elect to assume ownership of all or any PERMITTEE Improvements as of the expiration or earlier termination of this Permit, at no cost to CITY. If CITY elects to assume ownership of all or any PERMITTEE Improvements, PERMITTEE shall honor such assumption and execute and deliver all necessary and appropriate documents, materials and other items reasonably needed to effect such transfer of ownership to CITY.

22.2 Personal Property. PERMITTEE shall remove from the Permit Area all PERMITTEE-owned machines, appliances, equipment, trade fixtures and other items of personal property upon the expiration of the Term, or as soon as practicable after termination, but in no event later than thirty (30) days after the expiration or earlier termination of this Permit. Any such items which PERMITTEE fails to so remove shall be deemed abandoned and become CITY's property free of all claims and liens, or CITY may, at its option, remove such items at PERMITTEE's sole cost and expense. PERMITTEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of its personal property from the Permit Area.

22.3 Post-Permit License. CITY grants permission to PERMITTEE to enter upon and occupy the Permit Area after the expiration or earlier termination of this Permit solely for the purpose of removing PERMITTEE Improvements and PERMITTEE's personal property as provided by this Permit. This provision shall survive the expiration or earlier termination of this Permit.

22.4 Late Removal. Notwithstanding any provision of this Permit to the contrary, PERMITTEE shall pay rent to CITY for any period of time after the expiration or termination of this Permit needed to remove PERMITTEE Improvements or personal property as required by this Permit, whether by CITY or PERMITTEE. Such rent shall be calculated on a per diem basis using the rental rate in effect just prior to the expiration or termination of this Permit.

22.5 CITY's Right to Acquire Personal Property. If PERMITTEE wants to dispose of any of its personal property used in its operations on the Permit Area upon expiration or termination of this Permit, CITY shall have the first right to acquire such personal property.

23. Insurance. PERMITTEE shall deliver to CITY's Real Estate Assets Department a current certificate of insurance and all relevant endorsements for each of the following listed below. The procuring of such required policies of insurance shall not be construed to limit Permittee's liability hereunder, nor to fulfill the indemnification provisions and requirements of this Permit. Notwithstanding said polices of insurance, Permittee shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Permit or with the use or occupancy of the Permit Area.

(1) Commercial General Liability Insurance, providing coverage on the Permit Area for bodily injury, including death, personal injury and property damage with limits of at least Two Million Dollars ($2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars ($4,000,000);

(2) Automobile Liability Insurance, providing coverage on the Permit Area for all bodily injury and property damage, with a limit of at least One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired and non-owned vehicles) operated in performing any and all work pursuant to this Permit. Coverage shall be written on *ISO form CA 00 01 12 90*, or a substitute form providing equivalent liability coverage; and

(3) Workers' Compensation Insurance, as required by the laws of the State of California for all of PERMITTEE's employees who are subject to this Permit, with Employers' Liability coverage with a limit of at least One Million Dollars ($1,000,000).

23.1 Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives and agents" shall be named as additional insureds in all policies.

23.2 Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY.

23.3 Qualified Insurer(s). All insurance required by the terms of this Permit must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.

23.4 Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of PERMITTEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.

23.5 Modification. To assure protection from and against the kind and extent of risk existing with the Permit Use or the Permit Area, CITY, at its discretion, may require the revision of amounts and coverage at any time during the Term by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances or CITY's reasonable re-evaluation of risk levels related to the Permit Use or the Permit Area.

23.6 Accident Reports. PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons and related to the Permit Use or the

Permit Area. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

23.7 Causes of Loss - Special Form Property Insurance. PERMITTEE shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of PERMITTEE's insurable property related to the Permit Use or the Permit Area in an amount to cover 100 percent (100%) of the replacement cost. PERMITTEE shall deliver to CITY a certificate of such insurance.

24. Indemnification & Hold Harmless. PERMITTEE shall protect, defend, indemnify and hold CITY and its elected officials, officers, employees, representatives and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE's officers, employees, invitees, guests, agents or contractors, which arise out of or are in any manner directly or indirectly connected with this Permit or PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that PERMITTEE's duty to indemnify and hold harmless shall not include any established liability arising from the gross negligence or intentional misconduct of CITY and its elected officials, officers, employees, representatives and agents.

25. Compliance with Laws. PERMITTEE shall at all times in its use, occupancy, and maintenance of the Permit Area comply with all applicable laws, rules and regulations and direction by competent governmental authorities, and all at PERMITTEE's sole cost and expense. At least annually, PERMITTEE shall deliver to City copies of all documentary evidence of such compliance received by or otherwise available to PERMITTEE (e.g., validation of periodic inspection of PERMITTEE's fire-suppression equipment in the Permit Area).

26. California Public Records Act. CITY shall determine, in its sole discretion, whether information provided by PERMITTEE pursuant to this Permit is or is not a public record subject to disclosure under the California Public Records Act. PERMITTEE shall hold CITY and its elected officials, officers and employees harmless for CITY's disclosure of any such information in response to a request for information under the CPRA.

27. No Discrimination. PERMITTEE shall not discriminate in any manner against any person on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status or disability in PERMITTEE's use of the Permit Area, including without limitation the provision of goods, services, facilities, privileges, advantages and accommodations, and the hiring and retention of employees and contractors.

Equal Opportunity. PERMITTEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375 and 12086; the California Fair Employment Practices Act; and all other related and applicable federal and state laws and regulations. PERMITTEE shall not discriminate against any employee or applicant for

employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth. PERMITTEE shall cause the foregoing provisions to be inserted in all of PERMITTEE's contracts for work related to this Permit so that such provisions will be binding upon each of PERMITTEE's contractors. PERMITTEE shall fully cooperate with any investigation conducted by CITY pursuant to CITY'S Nondiscrimination in Contracting Ordinance (i.e., San Diego Municipal Code sections 22.3501-22.3517, as amended from time to time), and upon CITY's request PERMITTEE shall submit a current Workforce Report. PERMITTEE acknowledges that failure to comply with the requirements of this section and/or submitting false information in response to these requirements may result in termination of this Permit and debarment from participating in CITY contracts for a period of not less than one (1) year.

28. Equal Benefits. PERMITTEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require applicable parties to offer the same employment benefits to employees with spouses and employees with domestic partners. PERMITTEE shall certify that it will maintain such equal benefits throughout the term of this Permit. PERMITTEE's failure to maintain equal benefits shall be a material breach of this Permit.

29. Disabled Access Compliance. PERMITTEE shall comply with Title 24 of the California Code of Regulations (i.e., the "Building Code", as defined in Title 24 of the California Health and Safety Code); the Americans with Disabilities Act of 1990 ("ADA"); and any other applicable state and federal laws and regulations enacted protecting the rights of people with disabilities. PERMITTEE's compliance shall include without limitation the following:

    a. PERMITTEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs and termination of employment;

    b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs or activities of PERMITTEE;

    c. PERMITTEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site;

    d. Where required by law, PERMITTEE shall, at PERMITTEE's sole cost and in conformance with all applicable building codes, comply with applicable disabled-access requirements by making accessible any areas of the Permit Area which deny access to disabled persons; and

    e. PERMITTEE shall include language in each sublicense agreement, if any, indicating the sublicensee's agreement to abide by the foregoing provisions.

PERMITTEE and each of its sublicensees shall be individually responsible for their own ADA compliance program. PERMITTEE's failure to comply with the above requirements and/or submitting false information in response to those requirements shall be a default under this Permit.

30. CITY Employee Participation Policy. CITY may unilaterally and immediately terminate this Permit if PERMITTEE employs an individual who, within the twelve (12) months immediately preceding such employment did, in their capacity as a CITY officer or employee, participate in negotiations with or otherwise have an influence on a recommendation made to the San Diego City Council related to the selection of PERMITTEE for this Permit. It is not the intent of this policy that these provisions apply to members of the City Council.

31. Local Business and Employment. PERMITTEE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. For work associated with this Permit and to the extent legally possible, PERMITTEE shall use its best efforts to solicit applications for employment and bids and proposals for contracts from local residents and firms as opportunities occur. PERMITTEE shall use its best efforts to hire qualified local residents and firms whenever practicable.

32. PERMITTEE's Risk. PERMITTEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with PERMITTEE's use or occupancy of the Permit Area and any damages to the improvements on, under or in the vicinity of the Permit Area resulting directly or indirectly thereby.

33. No Nuisance. PERMITTEE shall not use the Permit Area in any manner which creates a nuisance or unreasonably disturbs the quiet enjoyment of persons in and to the surrounding area.

34. Assignment and Sublicense. PERMITTEE shall not assign or sublicense any rights granted by this Permit or any interest in this Permit without CITY's written consent in each instance. Any assignment by operation of law shall automatically terminate this Permit.

35. Signs. PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without CITY's prior written consent. If any such unauthorized item is found on the Permit Area, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter remove the item at PERMITTEE's cost.

36. Encumbrances. PERMITTEE shall keep the Permit Area free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with PERMITTEE'S use or occupancy of the Permit Area. PERMITTEE shall protect, defend, indemnify and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs, relating to or charged against the Permit Area, including without limitation PERMITTEE'S failure or the failure of any

contractor or subcontractor hired by PERMITTEE to pay any person or persons entitled to lien or encumber the Permit Area pursuant to the California Civil Code.

37. Taxes. PERMITTEE shall pay, before delinquency, all taxes, assessments and fees assessed or levied upon PERMITTEE or the Permit Area during the Term, including the land and any buildings, structures, machinery, equipment, appliances or other improvements or property of any nature whatsoever erected, installed or maintained by PERMITTEE, or levied by reason of PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area, including without limitation licensing and permitting costs and fees. PERMITTEE acknowledges that this Permit may create a possessory interest subject to property taxation, and that PERMITTEE may be subject to the payment of taxes levied on that interest. PERMITTEE shall pay all such possessory interest taxes. PERMITTEE's payment for such taxes, fees and assessments shall not reduce any payment due CITY.

38. Hazardous Substances. PERMITTEE shall not allow the illegal installation, storage, utilization, generation, sale or release of Hazardous Substance or otherwise regulated substances in, on, under or from the Permit Area. PERMITTEE and PERMITTEE's agents and contractors shall not install, store, utilize, generate or sell any Hazardous Substance on the Permit Area without CITY's prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

38.1 Release. For all purposes of this Permit, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a hazardous substance.

38.2 Hazardous Substance. For all purposes of this Permit, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.

38.3 Remediation. If PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area ("PERMITTEE's Operations") results in a release of a Hazardous Substance, PERMITTEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Permit Area, and in accordance with all applicable laws, rules and regulations of governmental authorities.

38.4 Removal. If PERMITTEE or PERMITTEE's contractor or agent has received

approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Permit Area, PERMITTEE and/or PERMITTEE's contractor or agent shall remove all Hazardous Substances in any type of container, equipment or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Permit Area. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.

38.5 Indemnity. PERMITTEE shall protect, defend, indemnify and hold CITY harmless from any and all claims, costs and expenses related to environmental liabilities resulting from PERMITTEE's Operations, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.

38.6 Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Permit Area, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Area.

38.7 Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's Operations resulted in any Hazardous Substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE's sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE's Operations on, in, from or under the Permit Area, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by city, county, state or federal laws, statutes, ordinances or regulations, or

require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Area and compliance with environmental laws and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefor.

39. Water Quality Assurances. PERMITTEE shall, at its sole cost and expense, comply with all laws, rules, regulations and direction of competent governmental authority (such as the San Diego Regional Water Quality Control Board) relating to water quality assurance and storm water management. PERMITTEE acknowledges and agrees that such legal requirements may change at any time and from time to time.

40. NPDES. PERMITTEE shall comply with all applicable requirements of the National Pollutant Discharge Elimination System ("NPDES") permit in force on the Effective Date of this Lease (i.e., Permit No. R9-2013-0001), and any and all amendments thereto and all applicable succeeding NPDES permits.

41. Stormwater Management. PERMITTEE shall comply with all applicable requirements of the San Diego Municipal Code Chapter 4, Article 3, Division 3: Stormwater Management and Discharge Control (the "Stormwater Code"), and employ "Best Management Practices," as that term is defined by the Stormwater Code, and as approved by the City of San Diego, in its governmental capacity, under its Stormwater Management Program.

42. Waiver. The property constituting the Permit Area is publicly owned and held in trust for the benefit of CITY's citizens. CITY's failure to insist upon the strict performance of any of PERMITTEE's obligations under this Permit, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. CITY's waiver of a default shall not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY's delay or failure to exercise a right or seek a remedy shall not be deemed a waiver of that or any other right or remedy under this Permit, at law, or in equity. The exercise of any particular right or the use of any particular remedy for any default shall not waive the use of any other right or remedy for the same default or for another or later default. CITY's acceptance of any rents shall not be a waiver of any default preceding the rent payment. CITY's failure to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY may at any and all times require the cure of the default.

43. Cumulative Remedies. CITY's rights and remedies under this Permit are cumulative and shall not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.

44. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.

45. Joint and Several Liability. If PERMITTEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of PERMITTEE under this Permit.

46. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.

47. Entire Agreement. This Permit constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Permit and PERMITTEE's occupancy, use, development, maintenance and restoration of the Permit Area. Any modification, alteration or amendment of this Permit shall be in writing and signed by all the parties hereto.

48. Counterparts. This Permit may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument.

49. Notices. Any notice required or permitted to be given under this Permit shall be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to PERMITTEE at PERMITTEE's Address for Notices, and to CITY as follows:

THE CITY OF SAN DIEGO
Attention: Director, Real Estate Assets Department
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101
(619) 236-6020

50. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation, limited liability company, partnership or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

51. Acceptance of Permit Area. By signing this Permit, PERMITTEE represents and warrants that it has independently inspected the Permit Area and made all tests, investigations and

observations necessary to satisfy itself as to the condition of the Permit Area and its suitability for the Permit Use. PERMITTEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition. PERMITTEE acknowledges and agrees that unless set forth in this Permit, CITY has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the Permit Area at any time either prior to, on or after the Effective Date. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area. PERMITTEE accepts and assumes all risk of harm to all persons and property, including without limitation PERMITTEE's employees, from any defects in the Permit Area, and shall be solely responsible therefor.

IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

Date: 1/13/14

San Diego Canoe and Kayak Team,
a California non-profit 501(c)(3) corporation

BY: Charles Luckman
Name: Charles Luckman
Title: Board Director

Date: 1/21/14

THE CITY OF SAN DIEGO, a California municipal corporation

BY:
Name: James F. Barwick, CCIM
Title: Director, Real Estate Assets

Approved As To Form And Legality
JAN I. GOLDSMITH

BY: DATE 1/27/14

NAME: Jeremy Fonseca

TITLE: Deputy City Attorney

Environmental Analysis Section Environmental Clearance:

This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301.

Date: 1/15/2014

BY: [signature]
Name: Martha Blake
Title: Senior Planner

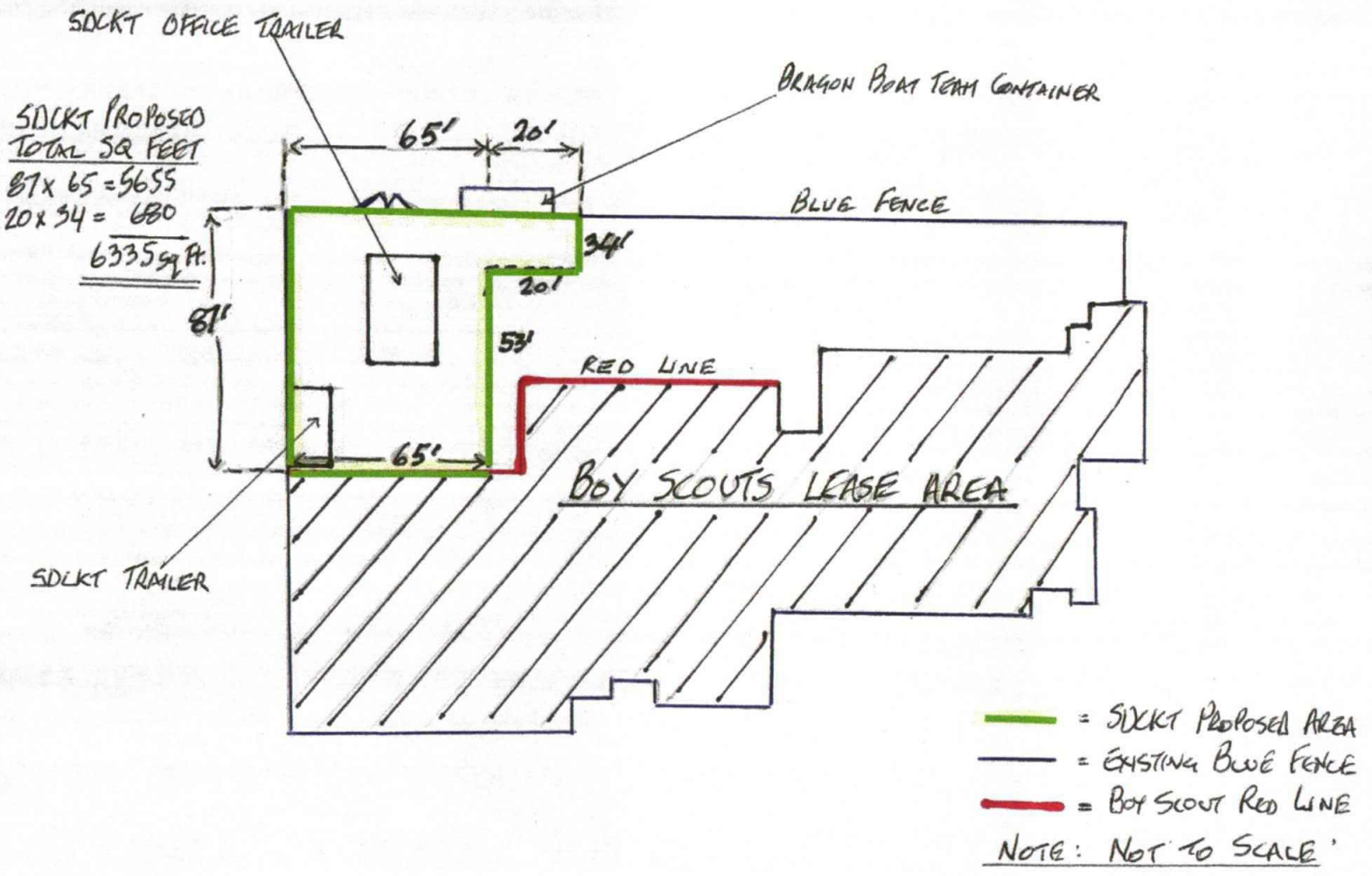
Approved as to form and legality this ____ day of _____, 2014:

JAN I. GOLDSMITH, City Attorney

BY: _____
Name: _____
Title: _____

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SAN DIEGO CANOE KAYAK TEAM- 2013



SDCKT USE AND OCCUPANCY PERMIT PROPERTY BOUNDARY
EXHIBIT A: AERIAL VIEW



Exhibit B: Equipment
SAN DIEGO CANOE KAYAK EQUIPMENT

#	Item	Color	Owner	Size	Make
14	Wing Paddles	White	SDCKT	SMALL	EPIC
46	Wing Paddles	Black	SDCKT	S/M/L	VARIOUS
8	Canoe Paddles	Black	SDCKT	Assorted	VARIOUS
23	Yolo and Kiola Paddles		SDCKT		
30	Life Jackets	Assorted	SDCKT	S/M/L	VARIOUS
4	Canopies	White/blue	SDCKT	10 X 10	EZ UP
2	Canopies Large Costco		SDCKT		
1	Tool Box and Tools		SDCKT		SEARS
6	Tables and Chairs		SDCKT		
3	Tool Cabinets		SDCKT		

SAN DIEGO CANOE KAYAK TEAM BOATS AND TRAILERS

Item	Make	Model	HIN/VIN	License	Engine
Coaching Boat 1	SOLCAT	1974/Catamaran/Power	SKLA05480474	CF3586UC	TOHATSU 9.8 HP
Coaching Boat 2	PRINDLE	Catamaran/Power	STRST199F788	CF1163ND	TOHATSU 15 HP
Coaching Boat 3	Supercat	Catamaran Hull		CF5051HN	
Coaching Boat 4	Caribe	Inflatable 1978/Office Trailer		CF0271	Nissan 6.62 Stroke
Office Trailer		24 ft..		NY4738	N/A
Kayak Trailer		24 ft enclosed trailer	1178823S11235		N/A
Kayak Trailer	SPCNS	1998/Carrier/Trailer	CA764323	4KP2528	N/A
Office Trailer	MODTECH	24X40FT	17596/17597	N/A	N/A
Canopy	Canopies	24ftx40ft			
Hobie Trailer	SHRLN	1983/CARRIER	1YR078799DG000807	4DS6171	N/A
Catamaran					
Trailer	Not used on				N/A

	street only for beach access				
Shed	Rubber Maid				
Shed	Lifetime				

SDCKT INVENTORY
CANOES/KAYAKS/SURFSKIS

#	Equipment	Color
	SINGLES/TRAINERS	
#1	K1 Lightning/plastic	Yellow
#2	K1 Lightning/plastic	Yellow
#3	K1 Lightning/plastic	Yellow
#4	K1 Lightning/plastic	Yellow
#5	K1 Lightning/plastic	Yellow
#6	K1 Lightning/plastic	Yellow
#7	K1 Lightning/plastic	Yellow
#8	K1 Lightning/plastic	Yellow
#9	K1 Lightning/plastic	Yellow
#10	K1 Lightning/plastic	Yellow
#11	K1 Lightning/plastic	Yellow
#12	K1 Lightning/plastic	Yellow
#13	K1 Lightning/plastic	Yellow
#14	K1 Lightning/plastic	Yellow
#15	K1 Lightning/plastic	Yellow
#16	K1 Lightning/plastic	Yellow
#17	Surfski Cobra Elimniator	Gray
#18	Surfski Cobra Elimniator	Blue
#19	Surfski Mini Onno	white
#21	K1 Struer Trainer	orange/white
#22	K1 Struer Trainer #6	orange
#24	K1 Mini	red
#25	K1 Mini	aqua
#26	K1 Mini	red
	SINGLES SURFSKI	
#30	Surfski Futura	pink stripe
#31	Surfski Valhalla	yellow
#32	Surfski Valhalla Emerald	blue/yellow
#33	Surfski Hammerhead	yellow/white
#34	Surfski Hayden	green/white
#35	Surfski Hayden	light blue
#36	Surfski Hayden	red/white/blue
~~#37~~	~~Surfski Hayden~~	~~blue/grey~~
#38	Surfski Stealth	pink/white
#39	Surfski Valhalla Victory	red stripe
#40	Surfski Fenn XT	red/white
#41	Surfski Epic V10 Sport	black
#42	Surfski Excell	pink/white
#43	Surfski Fenn Milenium	turqouise/white
#44	Surfski Valhalla special	black stripe

#45	Surfski Valhalla special	brown stripe
#46	Black Marlin	blue/white
#47	Twogood/Carbon	black/white
#48	Surfski Valhalla Victory	white/blue
#49	Surfski Valhalla	all white
#50	Surfski Fenn XT (Austed)	White
#51	Surfski Valhalla special	Red
#52	Surfski Valhalla special	green
#53	Surfski Hayden	Blue/Grey
#54	Epic V8 Perf Surfski	white/black
#55	Epic V8 Perf Surfski	white/black
#56	White Marlin	White
#57	White Surfski	white
#58	Fenn Millenium	Blue
#59	Surfski Tarpon Spec	white
#60	Fenn Millenium	White
#61	Valhalla Victory	white
#62	Fenn Millenium (Austed)	Yellow
#63	Fenn Millenium	white
#64	Valhalla Victory Special	White Black/Yellow
	SINGLES/INTERMEDIATE	
#60	K1 Orion #1	black stripe
#61	K1 Orion #2	white/blue
#62	K1 Orion #3	blue/red stripe
#63	K1 Orion #18	white/red
#64	K1 Orion NAC #6	white/blue
#65	K1 Orion NAC #7	blue stripe
#66	K1 Nelo Trainer	yellow
#67	K1 Kirton Trainer	white/blue stripe
	SINGLES/RACING	
70	K1 Hawk #5	white
71	K1 Hawk "Bubba"	white
72	K1 Hawk #15	white
73	K1 Hawk #17	blue
74	K1 Hawk #155	green/grey
75	K1 Hawk Max	maroon stripe
76	K1 Hawk	aqua/white
77	K1 Van Dusen Hawk	blue
78	K1 Van Dusen Eagle 2	blue
79	K1 Van Dusen Eagle	grey
80	K1 Van Dusen Eagle	blue/grey
83	K1 Hawk	Red/White
84	K1 Hawk	White
90	C1 Fibreglass/Delta	white

91	C1 Fibreglass	blue/pig trough
92	C1 Fiberglass	Red/white
93	C1 Fiberglass	Red/white
94	C1 Zibi	white
	SINGLES/RACING-ELITE	
#100	K1 Nelo Mosquito	yellow
#101	K1 Nelo Vanquish L	yellow
#102	K1 Nelo Vanquish M	green/black
#103	K1 Plastex L	blue/white
#104	K1 Nelo Vanquish M	Light Blue
#105	K1 Epic Legacy Club M	White/Blue
#106	K1 Epic Legacy Club M	White/Blue
#107	K1 Epic Legacy Ultra M	White/red
#108	K1 Epic Legacy Ultra M	White/red
#109	K1 Epic Legacy Perf L	white/Black
#110	K1 Epic Legacy Club L	white/blue
#111	K1 Epic Legacy Perf XL	white/black
#112	K1 Epic Legacy ultra XL	white/red
#113	K1 Plastex	Red/White
#114	K1 Epic Legacy M (#31)	White/black
#115	K1 Nelo Vanquish ML	red/black
	DOUBLES	
200	K2 Kirten (British flag)	white
201	K2 Weenonah	beige
202	K2 Nelo	yellow/Black
203	K2 Van Dusen	Grey
204	K2 Van Dusen	blue
205	K2 Gaybo	White/red stripe
206	K2 Plastex	red/white
210	C2 Wood	wood
211	C2 Carbon kayakpro	red/white
212	K2 Nelo Scorpion	yellow
213	K2 Plastex Eureka 150	Carbon
214	K2 Plastex Eureka 180	Carbon
215	K2 Plastex Eureka 170	Mix
216	K2 Plastex Eureka 180	Mix
217	K2 Falcon Van Dusen	Grey
218	K2 Epic ML	white/red
219	K2 Epic XL	white/red
	DOUBLES	
220	Surfski Double Fenn	white/red
221	Surfski Double Twogood	white/blue
222	Surfski Double Valhalla	white
223	Surfski Double Twogood	blue/
224	Surfski Fenn Carbon	Black

225	Surfski Fenn Elite	White
226	Surfski Comet	white
	FOURS	
400	K4 Plastex	yellow
401	K4 Van Dusen	blue
402	K4 Nelo M	blue
	K4 Van Dusen	Grey
403	K4 Nelo L	Blue
	EPIC BOATS	
E1	Surfski V12 Performance	White
E3	Surfski V10Sport Perf	white/black
E6	Surfski V10 ELITE	Black
E7	Surfski V8	white/black
E8	Surfski V8	white/black
E9	Surfski V8	white/black
E10	Surfski V10	
E12	Surfski V14	
E16	V10 Double Ultra	white
E17	V10 Double Perf	white
SUP 1	Hobie 12'6" carbon SUP	Black
SUP 2	Hobie 12'6" carbon SUP	Black
SUP 3	Hobie 12'6" carbon SUP	Black
SUP 4	Hobie 12'6" carbon SUP	Black
SUP 5	Hobie 14' carbon SUP	Black
SUP 6	Hobie 14' carbon SUP	Black
SUP 7	YOLO 12'6"foam SUP	yellow
SUP 8	YOLO 12'6"foam SUP	yellow
SUP 9	YOLO 12'6"foam SUP	yellow
SUP10	YOLO 12'6"foam SUP	yellow
SUP11	YOLO 12'6"foam SUP	yellow
SUP12	YOLO 12'6"foam SUP	yellow
SUP13	YOLO 12'6"foam SUP	yellow
SUP14	YOLO 12'6"foam SUP	yellow

CITY ATTORNEY

14 JAN 22 PM 2:47

CIVIL DIVISION